

Public Utilities

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Public Ownership and the Census

Comparisons of operation of municipally owned and private plants during the last five years.

By HERBERT COREY

Two little Scotch boys stood on the bank of a frozen loch, watching a third cut didoes on the ice. The ice broke. The skater went in, and one of the two on the bank swatthered after and rescued him. Aberdeen was so stirred by this gallantry that the townsmen bought a gold watch for the hero:

"Noo," said the Provost at the presentation ceremony, "wull ye no tell us in ye'er own way what ye were thinkin' o' when at the rrisk o' ye'er life ye hurried yersel' inta the icy waterr ta rescue ye'er freend?"

"Ah thought," said the hero, simply, "he was weerin' ma skates."

For the purposes of this particular

article that hero tale becomes a parable.

The recently issued section of the quinquennial census which deals with utilities shows that privately owned plants in some respects made a better showing than the more favored plants which are owned by municipalities in the past five years. The commercial plants offered a lower average rate and a more enterprising service. The municipal plants catered to the voters of their municipalities, which is a feature of the theory of municipal ownership, but for whatever reason you choose there were 396 fewer municipally owned plants at the end of the 5-year period than at the beginning in 1927. The story of the city-owned establish-

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ments might be told in a tabular way:

Number of municipal plants in 1927 ...	2,198
For five years they enjoyed—	
Freedom from regulation	
Freedom from taxation	
Minimum advertising costs	
Favor of politicians	
Support of radical U. S. Senators	
Ditto of manufacturers and bond salesmen	
Number of municipal plants in 1933 ...	1,802
Net decrease in number in five years ..	396

THE census report shows that at the beginning of the 5-year period the total kilowatt capacity of the 11,967 generators in the United States, was 25,811,305. At the end of the period there were but 11,108 generators in use but the kilowatt capacity had grown to 34,624,068. Measured in kilowatt hours the increase in output had been from 74,686,378,010 to 79,657,431,657. In that same period the record of the privately owned plants may be tabulated in this fashion:

Number of privately owned plants in 1927	2,137
For five years they enjoyed—	
Plenty of regulation	
Not less than 10 per cent tax on gross receipts	
Constant attacks by politicians	
Heavy advertising costs	
Violent attacks by radical U. S. Senators	
Number of privately owned plants in 1933	1,627
Net decrease in number in five years ..	510

AT first glance there is something anomalous in this statement of the history of the five years. Both municipal and private plants decreased in number and yet the kilowatt-hour output increased by 6.7 per cent in spite of the depression. Furthermore the kilowatt capacity increased by 34.1 per cent. This is an evidence that enterprise was still alive in the land.

Somewhere managers were found during the last five years who did not believe we were going to perdition on a one-way ticket. The census reporters unravel this apparent inconsistency. In their own words:

"The term 'number of reporting establishments' refers to ownership or control; consequently, in many cases a commercial establishment represents two or more generating stations or distributing systems. . . . The decrease from 2,137 to 1,627 in the number of commercial establishments during the 5-year period is due to the centralization of ownership or control or the absorption of independent generating stations accompanying the extension of transmission lines. The decrease from 2,198 to 1,802 in the number of municipal plants is due to the abandonment of municipal generating stations and the acquisition of municipal distribution lines by commercial systems."

To put that thought in different words it appears that 396 cities gave up the generating stations or distribution systems they owned in 1927. The census reporters do not suggest that the cities absorbed or acquired rival systems. They speak only of abandonment of generating stations and the acquisition of municipal distribution lines by commercial systems.

As it is not to be presumed that the cities went back to candlelight and mule power the conclusion seems warranted that the cities found that the ownership of generating plants and distributing systems was something less than satisfactory. It is probable that some of the 1,802 municipal plants which remained in city ownership at the end of 1932 had increased their kilowatt-hour output during the five years. But the total increase of both classes during that period amounted to 4,971,053,640 kilowatt hours. When it is considered that the census reporters speak of the municipal plants being abandoned or ac-

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quired by rivals, and that the commercial plants absorbed and acquired it is a fair presumption that this increase in kilowatt-hourage must be credited to the latter.

If this were a report of the operations of two great commercial systems, operating under identical conditions, it would be sufficiently remarkable. But it is not—not by a cracker barrel full. During the five years the politicians and demagogues and absolutely sincere theorists have done everything in their power to give the municipal plants an unfair advantage over the commercial plants.

AN example of their attitude is to be found in the current operations of the Tennessee Valley Authority, which is doing its best to obtain promises in its sphere of influence which will enable it to injure the privately owned utilities by the sale of the power to be derived from the plants to be paid for by the taxpayers of the United States. It will be admitted that the theory of public ownership is full of evangelism and old-fashioned love and sweet tunes, but in view of the census-reported history of the past five years it has not been demonstrated that it works satisfactorily. Those who believe in it are invited to ask themselves these questions:

"Suppose that the managers of the commercial plants had been permitted

to use the ear-biting and eye-gouging tactics granted by law to their municipal rivals—

"And bearing in mind the greater relative and absolute success of the commercial plants—

"And supposing that the unfair advantages given by law had been taken away from the city-owned establishments—

"How many municipally owned plants would now be in operation?"

The question arises as to what are the unfair advantages granted the city-owned plants?

FOR one thing they are not regulated —this generalization will be modified later—and the commercial plants are. This must not be distorted into an attack upon the principle of regulation. Most utility men are convinced that it is not only a practical necessity but a profitable necessity. They may oppose a particular regulation and think of an occasional regulator like a cornfield negro does of the Night Riders, but if they are given fair play they ask for nothing more. It is not fair play when the municipally owned plants are relieved of the restraints of regulation and those under commercial ownership are not.

The element of direct competition may not be present in a single field. Yet, if ever a municipal plant were to make a remarkably good showing, the men who hope to turn all the utilities



Q"THE municipal plants catered to the voters of their municipalities, which is a feature of the theory of municipal ownership, but for whatever reason you choose there were 396 fewer municipally owned plants at the end of the 5-year period than at the beginning in 1927."

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over to public ownership would not mention the fact that it had been free of a handicap its rival carried. Each little Jack Horner would sit in his corner and pull out that particular plum.

"What a good boy am I!"

In a recent issue of the PUBLIC UTILITIES FORTNIGHTLY Mr. Howell Wright made this statement:

"Municipal utilities in this country, generally speaking and taking the states as a whole, are outside the pale of state regulation. . . . The state commissions have fairly complete jurisdiction over the operation of private electric light and power companies in at least thirty-eight states, a limited jurisdiction in three states, while in the remaining seven states regulation is largely local in character. . . .

"There is no state regulation of municipal electric establishments in twenty-six states. The state commissions have fairly complete jurisdiction in ten states with limited authority in twelve."

M^R. Wright amplifies his statement that the commissions have in certain states "fairly complete" jurisdiction. In fact it appears that the commissions have no control of municipal accounting in thirty-one states. They have no control over reports in thirty states. They have no authority over rates in thirty-one states and no control whatever over service in thirty-one states. It is possible that the decrease in municipally owned generating and distributing services in the five years which ended with 1933 may be explained by another statement made by Mr. Wright in the same article:

"Regulation, however, will be demanded and ultimately secured as needed by municipal customers themselves when they discover how often they are the victims of discrimination, double taxation, and diverted funds."

MUNICIPAL ownership does work —now and then. Shortly after

the boom in Florida lands dissolved into mincemeat a friend drove through that then distressed state. In one pretty little town he observed the office of the municipally owned light and power company and visited it to find out what was going on. One young lady was at work there. She was the only office employee, she said. The city engineer divided his time between the plant and his other engineering duties and the city clerk sent out the bills.

"The town went broke," she said with engaging candor, "and no one can pay taxes. The only way we have of getting in any money is through the light and power company."

IN this case it apparently provided the revenue from which the city paid the operating costs which could not be dispensed with. My friend did not pause long enough to discover what kind of service the plant provided. Of course, this municipal plant paid no taxes, any more than do other municipal plants. A privately owned plant in this busted town would have been the sole milk cow in the stable, and would have been taxed to the point of extinction, perhaps. A recent writer in the *New York Times* called attention to the treatment accorded commercial plants as compared with municipal plants:

"Vast differences in taxation affecting the private and public companies should be noted. This disparity was extended in 1933 by the imposition of a 3 per cent tax on gross sales to domestic customers, which municipal plants do not pay; by adherence to the NRA, not required of public systems, and by higher state and local taxes for private concerns."

The charge that the private companies are compelled to meet unfair

Average Rates of Private Plants Less than Those of Municipal Plants

THE outstanding facts brought to light by the census report are that the average rate charged by the commercial companies is less than that of the municipally owned plants, and that a far greater degree of enterprise in the extension of service has been shown. Significance must be attached to the decrease in actual number of the municipal plants, as compared to the increase in volume of service by the commercial plants,"



competition seems established. Yet they have given better service than the municipal plants. It is difficult to account in any other way for the fact that whereas they have increased their business in the 5-year period, as shown, the municipal plants have stepped their business down. There were 396 fewer cities owning their own plants in 1933 than in 1927, but the total number of customers served by both private and public companies had by this time increased by 2,072,094, and the revenue had increased by \$154,059,953.

At this point an observation seems called for.

THE group of West North Central states, consisting of Minnesota, Iowa, Missouri, North and South Dakota, Nebraska, and Kansas have been particularly addicted to radical thinking. There have been farm strikes and near revolts in Minnesota. Iowa had its Brookhart and Nebraska its Norris. The two Dakotas and Kansas have for generations been fertile soil for new doctrine. The citizenry

of the seven states is for the most part intelligent, active, and dissatisfied, and its leaders superbly vocal.

Without bothering to check up on the record it is probable that the members of the United States Senate from the seven states have had more than their proportionate share of the *Congressional Record* by millions of printers' ems. It also appears that a sporting willingness on the part of the voters to listen to a new song does not keep them from stopping their ears when they have heard enough. The census report shows that in this group of seven states there were 221 fewer municipal plants at the end than at the beginning of the 5-year period from 1927 to 1933. More than one half the decrease of 396 city-owned plants was in the seven radical states.

This may be pushed a bit farther.

The geographic divisions considered by the census reporters are New England, which closed the period with 3 fewer city-owned plants, Middle Atlantic, with 4 less, East North Central with 51 less, West North Central with 219 fewer, South Atlantic with 86

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fewer, East South Central with 12 less, West South Central with 11 less, Mountain with 8 fewer, and Pacific with 2 less. Not one group of states failed to decrease the number of municipal plants with which they began the 5-year period.

IN five states, however, there were increases in the number of municipal plants. Vermont added 2 to the 14 with which she began the period, Texas 1 to her 33, Montana 2 to her 2, Idaho 2 to her 14, and Utah 3 to her 29.

It is not possible to use these facts as a basis for prognostication. There may have been reasons which do not appear in the census report for the failures to keep the public ownership faith. Here is the list of the states reporting fewer city-owned plants at the end of the period than at the beginning and those who wish to do their own deducing are invited to help themselves:

Minnesota in five years registered a net loss of 15, Iowa 30, North Dakota 13, South Dakota 8, Nebraska 76, Kansas 77, or a total of 221 in this group of states which Senator Norris often refers to as "forward-looking." Colorado lost 8, California 2, Arizona 4, New Mexico 1, Wyoming 2, Texas 1, Oklahoma 6, Louisiana 6, Mississippi 6, Alabama 5, Tennessee 1, Florida 7, Georgia 40, South Carolina 13, North Carolina 19, and West Virginia 3.

Other losses in city-owned plants are New Hampshire 2, Massachusetts 3, New Jersey 4, Ohio 2, Indiana 2, Illinois 22, Michigan 23, Wisconsin 2, Delaware, Maryland, and the District of Columbia together a total of 2,

and Virginia 2, and California 2.

It must be remembered that in all fairness these losses may not be charged against the hard times. A privately owned plant may lose so much money that it goes out of business on its ear. A municipal plant never does. It furnishes a public necessity and the citizenry would not stand for a shutdown. Losses can be obscured in the annual accounting. There are so many ways—I'll quote Mr. Howell Wright again—of:

"Discrimination, double taxation, and diverted funds."

THE census report shows that the average rate charged by the privately owned plants which serve 21,630,662 customers as compared with the 2,227,749 customers of the municipal plants is lower than the rate charged by the city-owned plants.

To be precise the average rate of the private plants is 2.7 cents per kilowatt hour, as compared to 3.1 cents by the municipally owned companies. This is approximately 13 per cent difference. In 1927 the private companies charged an average of 6.9 cents to domestic users against the 5.5 cents then charged by municipal companies. In 1933 the private companies charged 5.6 cents per unit, compared with 4.7 cents by municipal plants. In five years the private companies have reduced their rates by 19 per cent, against a 14.5 per cent reduction by publicly owned plants. The changes in average rates in five years are shown in the table on page 145, based on the census figures.

In certain of the categories here shown the municipal plants make a better showing than do the privately

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owned organizations. For the moment, however, it seems desirable to call attention to another variance in the conditions under which the two classes operate.

MUNICIPAL plants pay no taxes, broadly speaking. The fact that taxes are theoretically evaded is one of the reasons why there are publicly owned plants, of course. During the past five years the privately owned plants have taken no less than 10 cents out of each dollar of gross income for tax purposes. On the Pacific coast the tax rate runs 11 cents and in some cases more. One recent computation of the tax total paid by privately owned companies ran as high as \$210,000,000, and a majority of such estimates put the total at \$200,000,000. The census report shows that the revenue of the commercially owned companies was \$1,703,303,728 in 1932. If the lowest possible estimate of taxes paid is accepted—10 per cent on the dollar—the actual gross revenue is cut to \$1,532,973,356.

If that 10 per cent is allowed for in the census report of rates paid, it will be discovered that the privately owned companies undercharge the publicly owned companies by a very considerable sum, indeed.

The privately owned companies are enabled to make the showing on comparative average rates which they do

because they carry an immense business with power-using companies. They are in the business to make money and they have learned that money can most easily be made by lowering rates in order that more current may be sold. The municipal companies, of course, operate on another theory entirely. Their business is to please the voter in the city limits. This is said without malice. No matter how idealistic might be the management of a municipal plant, it could not be expected to bulge out over the city limits with a pack of benevolence. The common complaint of municipally owned plants is that:

Deficits are hidden in the general tax burden;

Maintenance is scamped to keep apparent expenses down.

IN order to get more business the private companies have sold current to the farm on a large scale, and at surprisingly low rates. The census report shows that the commercial plants in 1932 had 592,692 customers on farms, against the 21,061 farmers buying current from municipalities, and that the rate charged is 2.8 cents per kilowatt hour against 5.6 charged by the municipals. The wisdom of the course is shown by the amount of current purchased. The average farmer buys 2,511 kilowatt hours from the commercial companies against 767



<i>Cents per kw. hr.</i>	PRIVATELY OWNED PLANTS		PUBLICLY OWNED PLANTS	
	1933	1927	1933	1927
Farm service	2.8	2.0	5.6	6.8
Domestic service	5.6	6.9	4.7	5.5
Commerce and industry	2.2	2.0	2.3	2.5
Street lighting	4.7	4.8	2.1	5.6
Street and Interurban railways	0.9	—	1.1	0.9
Electrified railways	0.9	1.0	3.5	1.0

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from the municipals. The average revenue from a farmer is \$71 for the commercial companies and \$43 for the municipals.

This situation is reversed when the domestic consumer is dealt with. He is the voter—or she is—and the municipally owned companies are under an obligation to deal with him tenderly. Consequently municipal rates are only 4.7 cents against the 5.6 cents charged by the commercial companies. It is true that this apparent difference is practically wiped out if from the sum paid the commercial company by the domestic consumer is deducted the ten cents or more on each dollar extracted by the various forms of government for taxes. Suppose the facts be put in the form of a table:

COMMERCIAL		MUNICIPAL
Current sold per customer kw. hr.	600	708
Revenue per kw. hr.	5.6¢	4.7¢
Revenue per customer ..	\$34	\$33

If from the \$34 each domestic customer of a commercial company pays for current is deducted the \$3.40 which goes to the state, it appears that for the \$30.60 net the company receives he buys 600 kilowatt hours, against the 708 kilowatt hours for which he pays \$33 to the municipally owned plant. There is a slight difference here in favor of the municipal plant. It might be suggested, however, that the advertising done by municipal plants is very slender, indeed, whereas a considerable part of the out-of-pocket expenses of a commercial company goes for the information on new electrical gadgets which their customers ultimately buy. The municipal plants indirectly benefit by this at little or no cost.

It costs more per customer to handle domestic service than the commercial services. The small light and power buyer takes five times as much current from a commercial company (3,286 kilowatt hours) as does the domestic buyer (600 kilowatt hours). Broadly speaking the cost of reading a housewife's meter and sending her a bill is as much as the cost of serving a grocery. The commercial companies, being compelled to pay expenses as they go, charge 4.3 cents against the 2.6 cents of the municipal companies, which are forced to consider the sensibilities of voters. As the sum of current for large light and power companies rises to an average of 87,474 kilowatt hours the commercials cut the charge to 1.5 cents against the 1.7 charged by the municipals for an average of 31,249 kilowatt hours.

THE same principle holds good when charges are made for municipal street lighting. Again it should be reiterated that no criticism of the municipal plants is intended because they charge an average of only 2.1 cents for 489,379,847 kilowatt hours against the 4.7 cents charged by the commercial plants for the much greater kilowatt-hour total of 1,746,288,517. One of the reasons why a municipal plant can be sold to the voters is that the promise of cheap power for city use is always made. The factor of increased usage appears in another category, and enables the commercial companies to cut their rates for railroad and street railway motive power to .9, for they handle 11,677,-041 kilowatt hours. The municipals sell only 2,236,782 to street and interurban roads at 1.1 cents and boost



Aggregate Revenues from Various Classes of Electric Service

GROSS REVENUE	PRIVATE PLANTS	MUNICIPAL PLANTS
Farm	\$41,874,996	\$898,830
Domestic	584,995,286	64,769,464
Small commercial	459,440,913	32,411,579
Municipal street lighting	81,795,213	10,215,432
Large commercial	475,738,880	7,651,769
Electric railways	38,296,902	480,273
Other service	14,146,196	1,371,272
Electric, steam railways	7,015,342	3,177
Total revenue	\$1,703,303,728	\$117,801,796

the charge to 3.5 cents for the comparatively small amount of 22,379 kilowatt hours sold to electrified steam railroad divisions. The commercial companies sold in 1932 an average of 2,873 kilowatt hours to their customers against 1,683 by municipal plants.

It is not possible to make an exact comparison of the rates and services of the two classes of companies, for the reason that the municipal plants have not yet submitted to a unified system of accounting which would permit this. Here and there a municipal company is conducted upon thoroughly efficient methods. It may be candidly admitted that here and there a privately owned company does not give satisfactory service.

Not long ago a case in point came to my attention. In a small city on the Atlantic Seaboard the management of one such company had for years been engaged in a campaign for the enlistment of local support. Every

possible dollar was spent at home and almost every man who had money for investment had become a stockholder. The affairs of the company were known to the whole city and so excellent a business had been built up that it became a prize worth taking.

It fell into the hands of outside capitalists who reversed the procedure. Nine tenths of the locally owned stock was bought up in the fight to gain control. In order to pinch a few pennies most of the buying was done wholesale in other cities. Salaries and wages were cut and the sales of current decreased accordingly. This extreme example, however, is given as evidence that this is not the method of the average privately owned company. For the most part commercial managers follow the example of the little Scottish boy whose friend broke through the ice. They save their customers:

"He was weerin' ma skates."

The outstanding facts brought to

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light by the census report are that the average rate charged by the commercial companies is less than that of the municipally owned plants, and that a far greater degree of enterprise in the extension of service has been shown by the private companies.

Significance must be attached to the decrease in actual number of the municipal plants, as compared to the increase in volume of service by the commercial plants, although mergers and improvement in management reduced the actual number of privately owned generating and distributing establishments. And these things were done in face of the fact that the private companies are under a heavy handicap of taxation and regulation which the municipals escape almost entirely.

No census taker can assess psychological factors, but it is apparent, of course, that the greater opportunity for advancement offered by the privately owned company is a spur to endeavor which the city-owned plant lacks. Dr. George Otis Smith once discussed this phase. In speaking of two competing plants, the one city-owned and the other a commercial company, he said:

"They are thoroughly modern plants. The city-owned plant is the equal physically of its rival and quite as well situated. They serve the same territory. The management of one is as good as the management of the other, so far as I can discover. Yet the city-owned plant, free as it is of tax, is not rendering as good service or as cheap service as the opposition."

Ambition is still operating, even if it is tabbed with the unpleasant title of "the profit motive."

This Was Once No Laughing Matter

OUR modern utility services were not created by the Federal or state governments. They were established by individuals with vision and courage. There was no natural right to these services. They were introduced in the face of strong opposition and violent criticism.

Take gas lighting.

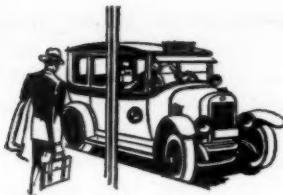
The idea that gas could be used for illumination was ridiculed. Many seemingly unsurmountable obstacles were pointed out. It was said that gas lighting would drive out the whale oil industry. Here are some lines revealing the spirit of the times:

*We thankful are that sun and moon
Were placed so very high
That no tempestuous hand might reach
To tear them from the sky.
Were it not so, we soon should find
That some reforming ass
Would straight propose to snuff them out,
And light the world with GAS*

When the idea that electric lighting might supersede gas lighting, it was met with the same sort of opposition and criticism.

"It can't be done," said the leading scientists in America and England. A professor in one of our great technical schools, in 1879 said: "After a thorough investigation, I find that the electric light is a failure."

The critics, as everybody knows, were wrong. The laugh is now on them, but it was no laughing matter to establish the service now regarded as a public right.



WHAT SHOULD BE DONE TO STABILIZE

The Poor Man's Limousine

Regulation urgently needed to establish the taxicab—the bull in the local transportation china shop—on a sound economic basis and to stop inequitable competition with mass transit agencies.

By JOHN A. MILLER

BENEATH an apparently smooth surface serious trouble has been brewing for the past several years in the field of local public transportation.

A rapid and uncontrolled increase in the number of taxicabs in operation has virtually destroyed the economic stability of the taxicab business. It has also done great injury to the business of local electric railway and bus companies. Regulation to correct these conditions is urgently needed, not for the sake of the local transportation operators alone, but equally for the sake of the general public.

If a child is allowed to have all the candy he thinks he wants, he is quite likely to end up with a bad attack of indigestion. Similarly, if the public is allowed to have all the local transportation service and facilities it thinks it wants, the result is quite likely to be a bad attack of transit indigestion. In the latter case, however, the relationship between cause and effect is not so easily discernible, and the public frequently fails to realize what has happened.

When regulation is proposed to prevent uneconomic competition and duplication of facilities, the man in the street almost always raises his voice in opposition.

The more the merrier, he thinks; and he says:

“There must be an opportunity to make money in the local transportation business or newcomers would not want to go into it and compete with existing agencies. Moreover, the public benefits from the increased service. Why attempt to restrict it?”

THAT, of course, is a superficial view of the situation. In the long run the public may well lose more than it gains through increased service. Low cost public transportation depends upon volume of business for its very existence. No street railway or bus company could afford to operate at a fare of 5 cents or 10 cents if its vehicles carried only one or two passengers per trip. Mass patronage is the essential element that makes these low rates possible. When competition materially reduces the patronage of the mass transit agencies the

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continued existence of the service is endangered.

OF late the competition of the unregulated taxicab in many communities has been making heavy inroads on the business of all other forms of local transportation. While the number of passengers taken away has been sufficiently large to create a serious problem by itself, the situation has been made worse by the fact that most of them have been the profitable short-haul riders. The long-haul riders whose transportation often costs the operating company more than it receives in fare, have largely remained on the street cars and busses.

Moreover, this competition is on an entirely inequitable basis. In large measure it has been built up through exploitation of labor. Instances are common where drivers work seventy to eighty hours a week in order to earn \$7 or \$8. Inquiries made by the writer of drivers in whose cabs he has been riding have repeatedly disclosed working times of fourteen, fifteen, and sixteen hours per day with earnings running below 10 cents an hour.

Under normal conditions, of course, men would not be willing to work such long hours for such low wages. The widespread unemployment which has existed for the last few years, however, has created an abnormal condition. Many jobless individuals and part-time workers have temporarily invaded the taxicab field in the belief that any money they can pick up in that way is just so much to the good.

Their entry into the taxicab business has been facilitated by the ease of securing cheap automobiles. In

recent years the market has been flooded with second-hand and new low-priced vehicles available on liberal terms. Most of the new crop of taxi operators have acquired cars of this sort on the instalment plan. The only real beneficiaries of this arrangement are those who furnish the cars. If the instalments are paid the seller makes a nice profit. If the instalments are not paid he recovers possession of the vehicle and starts over again with another operator. The operators themselves are barely able to earn enough to live.

When the taxicab first entered the field of city transportation the electric railway and bus lines were not seriously affected. Taxicab fares were on a metered basis and were well above those of mass transportation agencies. As the number of cabs increased, however, competition forced down the rates. In many instances the metered rates were abandoned and flat rates adopted. For the most part these rates have failed to yield an adequate return to the taxicab operators, but the competition has inflicted serious injury on the other transportation agencies.

IN Washington, D. C., for example, where wild-cat taxicab operation has flourished for the last three years, a recent conversation with a cab driver developed the fact that he was working seventy-seven hours a week and earning about \$6. Meanwhile the Washington Rapid Transit Company, which operates several bus lines in the city, reports a loss of 18 per cent in revenue attributable to the taxis. The Capital Traction Company has lost 25 per cent of its business in the last

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two years owing largely to taxicab competition. A similar loss has been experienced by the Washington Railway and Electric Company.

Elsewhere the situation has been substantially the same. During a period of cut-rate taxicab operation in Seattle the electric railway suffered a loss of \$800 a day. A taxi rate war in Columbus cost the local street car company \$20,000 a month. Taxicab competition is estimated to have taken more than \$1,000,000 a year in revenue away from the United Railways and Electric Company of Baltimore and is believed to have been an influential factor in forcing the company into receivership.

IF the taxicab were a better form of local transportation destined to replace the other forms now in use, its harmful effect upon the electric railways and bus lines might be set down as the inevitable price of progress. It is clearly evident, however, that the taxicab cannot supplant the street car and the bus in urban transportation. Even if the taxicab could afford to undertake the handling of all local transportation at a rate of fare within the reach of every one, the available street space would be woefully insufficient to accommodate the number of vehicles that would be required to do the job.

COMPARED with the street car or bus the taxicab is an extravagant user of space. Under average conditions about 8 square feet of roadway is required for each street car or bus passenger, while over 100 square feet of roadway is required for each taxicab passenger. It is evident, therefore, that any attempt to transport the present street car and bus passengers by taxicab would produce intolerable traffic congestion, unless accompanied by an enormous increase in roadway space through street widening and other expensive means.

Consider the situation in New York city, which has by far the largest number of taxicabs of any city in the country. Traffic counts made at certain street intersections have shown every second vehicle to be a taxicab. Despite this intensive development of taxicab service, the street railways and busses continue to carry more than five times as many passengers per year as do all the taxicabs. Certainly the impossibility of operating enough more taxis to handle all the present surface passenger transportation is obvious.

SINCE the taxicab is unable to take the place of the street railway and bus lines it is clearly contrary to public interest to allow it to destroy the essential service these facilities render.



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It is not primarily for the sake of the owner of street railway securities that taxicab regulation is needed but for the sake of the plain everyday citizen who depends upon public transportation facilities to take him back and forth to work.

Uncontrolled increase in the number of taxicabs also results in an alarming number of accidents. Taking Washington for example again, the total number of traffic accidents increased 30 per cent in 1930 over 1929, while the number of taxicab accidents increased 106 per cent. The following year taxicab accidents increased an additional 42 per cent while the number of other traffic accidents declined 9 per cent. A particularly bad feature of this situation is the inadequacy or total absence of insurance to pay injury and damage claims.

Reasons for the increase in accidents are to be found in the long hours of the drivers which result in over-fatigue, the habit of keeping one eye on the sidewalk much of the time in search of possible passengers, and the necessity to operate at high speed in order to make enough trips and carry enough passengers to cover expenses. The seriousness of this accident hazard is one of the most important reasons for regulation.

UNFORTUNATELY the true interests of the public in the taxicab situation are not generally understood. Politicians seeking to win public favor are wont to refer to the taxicab as "the poor man's limousine" and to oppose any attempt to limit its numbers or control its operations. When the public utilities commission of the District of Columbia attempted to

bring order out of chaos by having meters installed on all cabs operating in Washington, members of Congress hastened to the defense of the flat-rate service. The words of Mr. Blanton of Texas as reported in the *Congressional Record* are typical.

"Just now in Washington we have one of the best taxicab services ever known in our history. You can get in a taxicab and ride anywhere in the city proper for 20 cents. The street railways which have so long robbed the people here with a 10-cent fare have lost much of their patronage.

They and the bus companies and the Black & White and Yellow Taxicab monopoly are the only ones who are pushing this meter proposition. . . . Hundreds of deserving men who are driving these 20-cent taxicabs are ex-service men with wives and children to support. They could find no other job. . . . If they are run off the streets, which they will be if this order to go on a meter basis prevails, they will have no jobs and their wives and children will starve. . . . We must see that they get a square deal."

NOTHING was said in the discussion, however, about a square deal for the street car and bus operators who also have wives and children to support, and whose jobs are endangered by taxi competition.

Nor was anything said about the users of other transit facilities who must ultimately pay the price of this uneconomic competition through poorer service or higher fares. They, too, deserve a square deal. Nobody wants to see the taxicab abolished, but everybody interested in good public transportation wants to see it properly regulated.

Need for better taxi regulation is fully recognized by the organized taxicab companies themselves. As a guide to its members in proposing necessary laws, the National Association of Taxicab Owners has endorsed regulatory legislation which will:

Public Vitaly Interested in Taxi Regulation

SINCE the taxi is unable to take the place of the street railway and bus lines it is clearly contrary to public interest to allow it to destroy the essential service these facilities render. It is not primarily for the sake of the owner of street railway securities that taxicab regulation is needed, but for the sake of the plain everyday citizen who depends upon public transportation facilities to take him back and forth to work."



1. Place the taxicab under the control of state or city utility commissions.
2. Require evidence of public convenience and necessity before additional cabs are permitted to operate.
3. Require taxicab operators to furnish evidence that they can indemnify the public against loss from accident.
4. Require all charges to be based on the taximeter.
5. Designate minimum and maximum rates, based on operation costs plus reasonable profit.

A certain amount of progress has already been made in the direction of taxicab regulation. Eight states have passed legislation classifying the taxicab as a common carrier and placing it under the jurisdiction of state regulatory authorities. More than 100 cities in other states have adopted ordinances of similar nature regulating taxicab operation within their own borders.

ON the whole, the results of this regulation have been beneficial although enforcement has been lax in numerous instances. Under regulation the number of taxicabs averages

about one per 2,000 of population as compared with an average of one cab per 1,000 of population where there is little or no regulation. Since the regulatory measures were adopted only after careful consideration, it may be assumed that the ratio of cabs to population under regulation represents approximately the actual needs of the community. In other words, where there is no regulation there are practically twice as many cabs in operation as are needed.

THIS conclusion is supported also by comments made to the writer by cab drivers themselves. In one instance the driver said that the writer was the first passenger carried since the cab had set out three hours earlier. Another reported gross "bookings" of 90 cents for a little over five hours' work. Still another told of a whole night's operation that booked \$1.65. Such results indicate clearly a large surplus of service over demand.

With the number of taxicabs limited to that required to provide adequate service under normal conditions, the economic status of the business would

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be vastly improved. Vehicle earnings would be increased. Drivers could be paid a living wage. "Built for the purpose" cabs could be purchased to replace the miscellany of equipment now in operation. Higher standards of upkeep and cleanliness could be maintained. Liability insurance could be secured to protect the passenger in case of accident. Most important of all, perhaps, the service could be so organized as to assure quick response to a call anywhere and any time instead of the customary uncertainty as to whether the prospective patron will encounter a feast or a famine when he seeks a cab. In short taxicab service would be converted from a chaotic scramble into an organized transportation business. That this would be to the advantage of the public cannot be gainsaid.

IN many respects the present is a particularly good time to undertake taxicab regulation. The National Recovery Program has familiarized the public with the principle of control

and regulation of industry as opposed to unrestrained competition with its attendant evils of chiseling and price cutting. Moreover, the shorter work week and the recent upturn in business have created millions of new jobs, so that the struggling taxi driver may well find more promising opportunities in other fields.

THIS does not mean, however, that constructive action should be deferred in the hope that the situation will soon correct itself. Ultimately it might do so, but there is no assurance that such a chance solution of the problem would be right and there is ample evidence that the cost of delay would be exceedingly high. The time has come to attack the problem frankly and fearlessly. The taxicab has developed into an important element in local passenger transportation. As such it should be subjected to the same sort of regulation and control as the other transit agencies upon which depend the business and industrial life of every large community.

Handy Phrases for Our Political Leaders

Power trust magnates.

*

High binders, big and little.

*

The power and the might of predatory wealth.

*

The forces of reaction, demagoguery, and fanaticism.

*

Public and private corruptionists are pooling their resources.

*

The great mercenary forces of wealth, politics, and morals.

*

The little mean, vicious, bigoted packs doing their master's bidding.

I believe in free government.

*

Stabbed in the back by the forces of evil.

*

I believe in justice and honesty in public affairs.

*

The great mass of plain men and women of the state.

*

I stand for the public welfare as opposed to selfish interests.

*

The forces of manhood as opposed to those of reaction, corruption, and injustice.



The Professor's Place in Politics

Some of the characteristics of the academic attitude of mind and the uses to which it may be put for the benefit of the public.

By LOTHROP STODDARD

ONE of the most acrimonious controversies of the present day is that concerning the relation of the academic specialist to public affairs; or, to use the current slogan: *The Professor in Politics*.

To many persons, especially of the "hard-headed" variety, the very idea is anathema. Teachers, say these objectors, should stick to their class-rooms like the proverbial shoemaker to his last; the professor in politics would further bedevil a situation from which we can be extricated only by "practical" political and business leaders who know how to run things and manage men.

Yet the other side has its answer pat: Our politicians and financiers have long had virtually a free hand in running the country—and look where they have landed us! Recruits from the chaste Groves of Academe will give us just that combination of technical knowledge, professional ethics, and disinterested idealism needed to get us out of our present muddle

and start us going on sounder and better lines.

There, in a nutshell, you have the clash between two sharply contrasted points of view. As with most controversies, voices rise and tempers shorten. One side clamors for a moratorium on professors. The other side often acclaims this learned gentleman as the Saint George who will slay the dragon Depression. All of which means that both sides are generating heat rather than light; that they are "thinking" with their ductless glands instead of getting down to cases.

THE basic facts are as plain as a pikestaff. The national mansion is sadly dilapidated; it needs a thorough housecleaning and considerable renovating before it will again be a comfortable abode. To put our national home in first-class shape, all sorts of craftsmen are needed, from architects and interior decorators to painters, plumbers, and furnace men.

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In this complex task, why shouldn't there be jobs for a considerable number of the genus "professor?" During the past generation we have spent billions of dollars on higher education. The country is dotted with colleges and universities, staffed by specialists in every branch of knowledge. Refusal to make use of these specialists in technics and ideas would be as shortsighted as it would be stupid.

Only, we must know just how and where to use them.

No sensible man would choose a bricklayer to draw blue prints; neither would he set an architect to emptying ash barrels. So, in the same way, we should figure out the proper places for various types of academic experts in our national reconstruction scheme. The function of the "man of ideas" will obviously be very different from that of the technician, highly trained in his narrow field but useful nowhere else. Last, but not least, we should understand the nature of the academic mind and how it can be adjusted to "practical politics."

If we do these things, we shall discover that most of the stock objections to the "Professor in Politics" are either beside the point or can be effectively minimized. What are these objections and what do they amount to?

Let us see.

Probably the commonest of them is that the academic mind is hopelessly impractical. College professors lead a cloistered life and live in a realm of books and theories far removed from the practical, pressing problems of present-day industrial competition. Hence, most of them are idealists, vis-

ionaries, and dreamers who evolve theories that often sound plausible enough but just don't work out in the hurly-burly of business and politics.

ALMOST equally common is the charge that college professors are inclined to be "Reds"; that most of them tend to line up with the liberal-radical rather than with the conservative groups. Our colleges and universities are often dubbed hot-beds of radicalism, and radicalism of the most dangerous kind, because it is "respectable" and thus a peculiarly insidious sort of Red propaganda.

Now in both these charges there is a deal of truth. Most college professors *do* live in an academic world of their own, largely out of touch with everyday realities. Likewise, many professors *are* radicals of various shades.

However, there is no inherent reason why professors should be radicals. Much in the academic environment normally makes for conservatism. The members of a faculty are usually devoted to the welfare of their college or university; and this, in turn, engenders a corporate sense of loyalty and responsibility. Again, professors are specialists, which inclines them to be cautious in their thinking and slow to accept novel theories. Moreover, they are in the main engaged in gathering and disseminating the knowledge of the *past*, and that gives them an historic sense which makes for conservative views.

WHY, then, are most college professors popularly supposed to be more or less radical?

The answer seems to be because they usually hold some theory which

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does not quite square with the layman's practical, "common-sense" point of view. Now any idea which is noticeably at variance with current notions is apt to be called "radical"—for obvious reasons. But that does not necessarily make it radical, in the sense that it is genuinely subversive or revolutionary in character.

YEET, whatever its innate nature, it is an idea evolved from theoretical speculation rather than from practical experience; and, furthermore, an idea not tested out by the hard facts of everyday life. The professor, in his capacity as teacher, deals with immature minds whose possessors either take his words as gospel truth or who have neither the knowledge nor the hardihood to "talk back" to him. Again, his faculty associates—academicians like himself—may modify his pet theory but confirm his *theorism*. The upshot is an attitude of mind at once so theoretical and so dogmatic that when your average professor has once reached a definite conclusion on a particular matter—in other words, formulated a logical theory—his mind closes; and since he lives in a protected environment, no facts from the workaday world are likely to intrude insistently enough to budge him out of his fixed attitude. So when your typical professor does

come in contact with laymen, his dogmatism jars upon them, and they put him down as a "liberal" or a "radical" whenever, as usually happens, he doesn't fully agree with them.

OVIOUSLY, however, this academic radicalism is very different from that of the proletarian agitator. It likewise differs widely from the radicalism of the "parlor pink." Far from being a dogmatist, this latter brand of radical is forever seeking the "kick" of a new idea, just as he or she does from that of a new kind of hooch or from the thrill of a new love affair.

The real academic radicals, that is, those with genuinely revolutionary theories, are radicals, not because they are college professors but because they are the sort of individuals who naturally tend to think and feel that way. For the most part, they belong to the class known as Intellectuals, spelled with a big "I";—a class which no more includes all those who genuinely cogitate than *The Peepul*, spelled with a big "P" is synonymous with the bulk of the population.

Viewed thus realistically, college professors appear as a group characterized, not by any outstanding trend, but by a highly complex individualism ranging all the way from bright-red Communists to dyed-in-the-wool



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Standpatters. About the only trait they have in common is the academic attitude of mind.

We have already analyzed the shortcomings of the academic attitude. Yet it has its good as well as its bad side. The college professor has a trained intellect. He knows how to dig out facts; he should know how to marshal them and to draw intelligent deductions therefrom. Alongside these mental accomplishments normally go a professional code of intellectual honesty and the capacity for scientific detachment.

HERE are qualities genuinely needed in the great enterprise of national reconstruction which lies before us. These are not routine times when tradition and precedent suffice. Our transition epoch calls for exact knowledge, intellectual alertness, and, above all, the leaven of new ideas. Such needs the academic mind is well fitted to supply.

But, the academic mind must be kept in its proper place. And that place is essentially an advisory one. The college professor may usefully marshal facts, check up on existing situations, draft mental blue prints, and suggest feasible policies.

And there his rôle should end.

Decision and execution do not normally lie within his province. The man of thought is rarely a man of action. Furthermore, politics is not a science, but an art. The true executive is born to his calling; he cannot learn it from books.

Yet the man of action needs the man of thought, in order to get his facts straight and intelligently make up his mind. This applies to all the

outstanding problems which confront us as a nation. It is notably true in the field of public utilities.

Here, to be sure, such advice is abundantly, perhaps superabundantly, available. For years, the complicated issues centering around public utilities have engaged the attention of a host of academic minds. Both "professors," in the technical sense, and economic thinkers not officially connected with a college or university have written countless books and articles on power and other utilities.

SOME of these writings have had a very wide circulation, arousing keen interest not only among the general public and the politicians but with public utility executives and technicians as well. For example: as far back as 1926, Professor William Z. Ripley of Harvard University made a profound sensation with his book, *Main Street and Wall Street*, and has maintained his reputation by subsequent magazine articles on public utility problems. The same is true of Professor James C. Bonbright of Columbia, whose volume on *The Holding Company* is a widely discussed book. Professors Mosher and Crawford of Syracuse have written several notable volumes on public utilities in general and upon the electric power utilities in particular. These are mere outstanding instances of an extensive list.

Even a cursory examination of this abundant academic literature reveals certain characteristics which distinguish it markedly from the pronouncements of those who may be called "professionals" in the public utility field. The professorial writers nearly



What the Professor May Contribute toward Material Reconstruction

THE college professor has a trained intellect. He knows how to dig out facts; he should know how to marshal them and to draw intelligent deductions therefrom. Alongside these mental accomplishments normally go a professional code of intellectual honesty and the capacity for scientific detachment. Here are qualities genuinely needed in the great enterprise of national reconstruction which lies before us."

all have the "academic mind." Their books and articles are essentially *theses*—sometimes popularly written, yet always the fruit of scholarly research rather than of first-hand experience.

The writings of executives and technicians, on the other hand, are concerned less with general theories than with specific situations; there is little abstract speculation but a lot of incidents, facts, and figures.

The professors are inclined to question fundamentals; the professionals usually take the existing set-up for granted as the basis of their calculations. Broadly speaking, this means that the academic mind tends to have a radical or semi-radical slant towards public utility problems, whereas the professional mind is nearly always conservative.

So far as thought and counsel are concerned, both types of mind

are valuable, especially in transition times like ours. But where action is concerned, the situation alters. The professor once out of his intellectual element, the results of his activities have usually been unfortunate for all parties concerned.

Therefore, in the great tasks of readjustment which are before us, we should be well advised to heed the principle of specialization of functions; to insist upon a proper "division of labor" . . . We all realize that the public utility situation is today not only unsatisfactory but dangerously unsettled. Before long, the respective relations of the three prime factors in that equation—power, politics, and the public—must be clearly defined.

What principles and policies should, and which will, prevail? Just now, the air is full of high-sounding phrases: "private initiative," "public

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regulation," "government ownership," and more besides. How far do such phrases connote intelligent thinking, and how far are they mere slogans springing from blind emotion or from clever propaganda?

We know that if we had all the facts at our fingers' ends; if we could analyze and compare all the experiments thus far made in the world; and if we could then see how these things applied to the special circumstances in our own country, we should presumably handle such matters in wise, constructive fashion.

Now the quickest as well as the surest way of seeing the picture reasonably whole is to call in the best thinkers and the most competent specialists in this field, to present the facts and set forth the outstanding ideas. Never mind if some of those ideas are "radical." Our political leaders don't have to follow radical advisers; and if they are level-headed men, they will not—except, perhaps, in nonessential details. But at least they will hear all sides.

And that will do a lot toward spiking revolutionary agitation; because it will show Mr. Average Citizen that our leaders are trying to act in a truly

broad-gauge, open-minded way. If our statesmen listen only to what party henchmen and organized private interests have to say, the current wave of popular suspicion and resentment toward the public utility situation will not be allayed. The public knows that things have not been right. Tragic disasters like the collapse of the In-
still "empire" have made that only too plain. In this field, notably, the American people demand a "new deal."

Until confidence is restored, the public will remain susceptible to the harangues of revolutionary demagogues who shout that everything is wrong and that the whole existing economic order must be scrapped in favor of some Communistic scheme. When confidence is restored, the revolutionists will automatically lose their audience, and hence their power to harm.

The times are out of joint, and if we are to set them right we cannot afford to dilly-dally. To make a quick, clean job of national reconstruction, we need the best brains we've got. And we can make full use of them in the public service—provided we use them in the proper places and for the proper purposes.



"**T**HE railroads are, of course, engaged in a public service and I know of no railroad executive who questions the propriety of governmental regulation, but, in recent years, alternative and competitive means of transportation have been developed which, with rare exceptions, are permitted to function in unrestrained and unregulated fashion. Even that is not all. They are subsidized in one form or another."

—F. E. WILLIAMSON,
President, New York Central Lines.

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

HUGH S. JOHNSON
National Recovery Administrator.

"This is an era of organization."

GENERAL W. W. ATTENBURY
President, Pennsylvania Railroad.

"The whole attitude of the people is changing."

GEORGE B. CORTELYOU
*President, Edison Electric
Institute.*

"The Federal government should not repudiate or shun its own Blue Eagle."

ARTHUR E. MORGAN
*Chairman, Tennessee Valley
Authority.*

"Bureaucratic dead wood and patronage are not wholly lacking in some private utilities."

HENRY A. WALLACE
Secretary of Agriculture.

"It is hard for the idealists to do the difficult spade work which must be accomplished day after day."

REXFORD G. TUGWELL
Assistant Secretary of Agriculture.

"The government at Washington today is as different from the old political set-up as is an autogyro from a Model T Ford."

DONALD R. RICHBERG
General Counsel, National Recovery Administration.

"There must be set up somewhere a government of industry adequate to insure a nation against mass starvation in the midst of plenty."

ELMER THOMAS
U. S. Senator from Oklahoma.

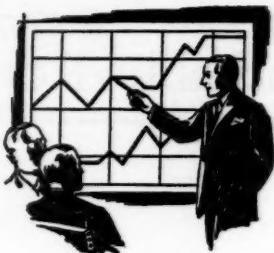
"The administration's policy of cheapening the dollar does not go even so far as the cheap money policy in existence during and just after the World War."

GIFFORD PINCHOT
Governor of Pennsylvania.

"The burden of justifying a raise in rates should be on the company which originates the raise at all times, and never on the consumer who must pay the bill."

S. WELLS UTLEY
President, Detroit Steel Casting Company.

"If, under the plea of emergency, the President can take away from the citizen his private property in the form of gold, in return for paper of two thirds its value, can he also, under the same plea, take citizens' private property in the form of land, home, or factory?"



How Cost of Distribution Figures in Electric Bills

WHEN the average domestic customer of an electrical company is told that it costs only half a cent to generate a kilowatt hour of current which the company charges him from 4 to 8 cents for he wonders why, just as many persons wonder why the grocer charges so much more for apples than the farmer does. The author shows why the cost of distribution adds materially to the cost of making electric current available to users. He also points out why distribution costs cannot be standardized. This is a complex technical subject, but of great importance as distribution costs have been subject to attack by those who are agitating for lower electric rates.

By ROBERT TEVIOT LIVINGSTON

IN the midst of rising prices, in many cases standardized by government agencies at high levels, we are faced by the extraordinary fact that great effort is simultaneously being made to reduce electric rates generally.

It is not impertinent to remark, however, that the encouraged increase in the price of bread or milk alone is more than could be saved by the largest cut in the domestic rate that even the most optimistic utility critic or public service commissioner could hope for.

While commodity prices have advanced to a point where generally they are comparable with prices in 1926, electricity for domestic service is well below the 1926 level. Industries throughout the country have had and

are having a hard time, have asked and are asking aid, advice, and assistance of governmental agencies and have in many cases been a drain on the taxpayer's pocket.

Yet throughout the depression and to this day the utility business has been a firm rock in the shifting sands of business uncertainty. The operating utilities have provided steady employment for hundreds of thousands, have contributed millions of dollars in taxes to Federal, state, and local governments, and by advance planning and sound economic structure have managed to weather the storms of the past few years. Today their very strength and independence is held against them as a sign of improper profits and disproportionate rates.

It is forgotten that in the twenties

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while industrial concerns were making hundreds of per cent profit the utilities were struggling along on a mere six, seven, or eight per cent.

ENCOURAGED by our professional utility critics and so-called rate experts the man in the street is today taking a real interest in the cost of his electric service. This is no new question although the widespread interest is. It has been argued pro and con for many years and the questions of the costs of production and transmission have been thoroughly and completely aired.

Now attention is being centered on the cost of distribution which it is said is too high.

It is the purpose of this article to inquire into this question and to show why the cost of distribution cannot be the same in all cases and why it is dangerous casually to compare costs. There will be no attempt to present a definite answer; rather it will be shown that an added cost due to distribution is not something unique with the utility business but that it is natural to all business being as essential and proper as the cost of production. Further it will be shown that distribution cost is not fixed and unchanging but varies both in locality and in time owing to the interaction of a large number of factors of themselves very variable and in many cases not easily to be determined.

DISTRIBUTION is not an isolated phenomenon. The term distribution is used to cover a wide variety of economic activities but in one form or another it is present in all businesses. Fundamentally it may be said that in any of the economic processes there

are three major productive activities:

1. The production of the raw materials.
2. The processing whereby these raw materials are converted to the finished product.
3. Distribution including the transportation—of any of the items, either raw material or finished article.

THREE productive activities are basic. They appear in, and are applicable to, any manufacturing process, be it the product of fine watches or freight cars, automobiles or kiddycars, books or tombstones, canned corned beef or electric energy. The principal differences in each case are the relative importance of the three items, the amount of value added by the processing or transportation, and whether the different activities are by the same or different agencies.

In any specific instance, the processing may add little or much to the value of the product. In manufacturing a watch the value of the raw material is small or negligible. It is the processing that gives the value. Similarly transportation may increase the value of an article manifold by taking it from a place where its value is small due to its plentifulness, and delivering it to a market where the demand exceeds the supply.

Salt in the salt mines of New York or coal in the Pennsylvania mines are, indeed, different things when delivered to the consumer. Transportation has given value.

There are industries such as farm products where the producer and the consumer are far apart, there being several intermediaries. Similarly there are industries, such as, for instance, the gasoline industry—(by

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and large) where the consumer and producer meet.

It is important to realize these three productive economic activities are definitely interdependent and that *distribution* is a productive activity which as far as the consumer is concerned is as valuable as production. From his point of view it is not important if electricity is free if he cannot get it.

There are millions of units of undeveloped hydro power in South America and in Africa which could be developed so that the cost per unit would be an infinitesimal fraction of a cent yet this power is not developed, nor is it likely to be during our lifetime because the cost of transportation would not merely double the delivered cost but increase it perhaps a thousandfold.

It must be appreciated that each of these productive activities has its part in the economic structure. Each adds value to the product. Each is dependent upon the others for its fullest development as an efficient working member of the whole economic machine. The consumer must, therefore, realize that he must pay the cost of distribution just as he does realize that he must pay the cost of production or of the processing.

It is frequently stated today, and with conscious horror, that the electricity which costs but half a cent

to generate is sold at as high as 8 cents.

There is apparently an unconscious assumption that the productive effort lies wholly within the sphere of generation. If the generation cost was half a cent, then the selling price, it is said, should be very little more. The real cost is assumed to be the generated cost. Anything extra such as distribution is looked upon with suspicion and hostility.

Perhaps one reason for this resentment is the fact that one corporation generally does both the producing and the distributing. In agriculture, on the other hand, one group specializes in production, while a second different group specializes in marketing, and a third in processing where necessary and so on to perhaps eight or more.

THE cost of distribution is a highly complex thing.

It is not a constant with any convenient unit such as customers or kilowatt hours but varies as the various factors alter in relation to one another and to the whole. Distribution systems are built in anticipation of demand and may be very poorly loaded, or again rapid and unexpected growth may overload a system and necessitate additional investment in facilities.

It is impossible arbitrarily to say that a given unit cost of distribution is too high. For example, 4 or even 8 cents a kilowatt hour may, under certain particular conditions,

G“It is impossible arbitrarily to say that a given unit cost of distribution is too high. For example, 4 or even 8 cents a kilowatt hour may, under certain particular conditions, be very low while under other somewhat similar conditions apparently differing only in some unessential, one cent or one-half cent a kilowatt hour may be excessive.”

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certain particular conditions, be very low while under other somewhat similar conditions apparently differing only in some unessential, one cent or one-half cent a kilowatt hour may be excessive.

Again this is not unusual. Similar conditions are met in the distribution of almost any manufactured product. Consider, for example, the case of the automobile factory contracting to deliver within one week to an agent any number of cars up to, say, seven hundred and thirty in a year. Further, contemplate two agents. The first asks for and accepts fourteen cars every week. The second demands all seven hundred and thirty on the ninth month of the contract. In the case of the first agent it is a relatively simple matter to serve him. The production schedule can easily be laid out to meet his needs and transportation is simple. While in the case of the second agent it is necessary to keep seven hundred and thirty cars in stock ready to supply him and the interest on this investment alone would be a large item. In actual practice the second agent would have to wait for his delivery but the utility customer will not.

Take the case of articles which are purchased from a store. If the desired article is not in stock the consumer goes without, goes elsewhere, or accepts a substitute. Once connected, however, there is no substitute for electricity. The utility is somewhat in the situation of a store which would contract to supply any quantity of an article on demand. But the utility actually is in a worse situation for electricity cannot be generated and casually stored. Each unit is demanded, generated, transmitted, transformed,

distributed, and recorded substantially simultaneously.

LET us consider the major divisions of electric costs. The public utility business consists of the furnishing of public utility service, when, where, and as demanded. Electricity must be delivered at specified voltages, at any rate of demand, at any time, and at any place within the area the company is required to serve. This necessity of furnishing all consumers whatever they require at any rate of demand and at any time is one of the major peculiarities of the public utility business which sets it apart from others.

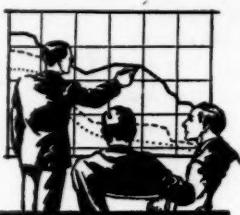
Utilities supply entirely different classes of consumers, whose rate of demand, consumption, and requirements are very different. The cost of serving them is quite different. From a physical viewpoint the various items which together form the total cost of service delivered to the consumers may be classified under the following divisions :

1. Cost delivered to the substation.
2. Cost of distribution.
3. Cost of selling.

For each of these divisions there are the two accounting costs :

1. Operating costs.
2. Fixed costs.

THE fixed cost represents the hire of capital, purchase of management, and the cost of social protection. It consists of the general and miscellaneous expenses, the fixed charges, the retirement charge, the taxes, and other similar costs, and while necessitated by the production is not directly related to it but rather to the capital



The Varying Cost of Electric Distribution

	<i>Customer A</i>	<i>Customer B</i>	<i>Customer C</i>
Consumption/year	300	600	1,800
Average rate in ¢/kw. hr.	8	6	4
Annual bill in dollars	\$24.00	\$36.00	\$72.00
Approximate demand/customer in kw.	0.25	0.25	0.50
INVESTMENTS			
Meters, services, and transformers	32.00	34.00	38.00
Lines and substations (\$/\$ rev.)	24.00	36.00	72.00
Total distribution investment	<u>\$56.00</u>	<u>\$70.00</u>	<u>\$110.00</u>
EXPENSES			
Fixed charges @ 15%	\$8.40	\$10.50	\$16.50
Meter operation	2.50	2.50	2.50
Supt. @ 1½ mills/kw. hr.	0.45	0.90	2.70
Substation operation—% rev.	1.20 (5%)	1.98 (5½%)	4.32 (6%)
Total distribution operation	<u>\$12.55</u>	<u>\$15.88</u>	<u>\$26.02</u>
Unit in ¢/kw. hr.	4.19	2.65	1.45
Price of additional kw. hr.	1.11	0.85

which is employed in the production.

The cost in the substation consists of:

1. Production charge.
2. Transmission charge.

It is important to realize that the cost desired is not the production cost alone but rather the cost delivered at the load center. It must of necessity include not only direct operating costs but also maintenance, and, even more important, fixed charges. The answer to all competitive power costs lies in a consideration of how much the power costs to deliver at the delivery voltage and in the amount desired. Loss and

incremental costs due to transmission are rightfully chargeable to the "cost delivered" and a consideration of generating costs alone is more of academic than practical interest.

As has been stated distribution costs are not constant with any single convenient unit but rather depend upon the simultaneous interaction of a number of forces. This is not only true of distribution in all manufacturing industries but also is true of costs in general, to a greater or less degree.

Some costs are caused by the production of the commodity and vary with it. There are certain other

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costs, commonly known as "Customer Costs," which depend upon the consumer alone without much regard to the amount he uses.

It is obviously cheaper to deliver a given amount of goods to one consumer than to ten or more. It is not only cheaper from an operating point of view but perhaps more important from the point of view of the investment required. For example, if a manufacturer requires a railroad siding built it does not matter very much if he ships a car a day or a car a week. The cost of the siding is the same. The investment is the same. The interest charges are the same.

Other cost differences are caused by different rates of demand.

This was illustrated by the two automobile agents. In the case of the manufacturer requiring a railroad siding, if the siding is required for five cars instead of one car, it would have to be longer and consequently more expensive. Even if the manufacturer shipped the same seven cars a week but shipped them on one day, the cost might well be greater. In this particular case, the original cost of the siding for one car would cost more on a unit basis than the unit cost of the siding for five cars. It is almost always cheaper to manufacture at a steady rate, employing machines and labor on a definite schedule, than it is to produce intermittently, holding machines and labor idle for long periods of time and then working overtime.

Still other costs are dependent upon the revenue which the company receives.

At the present time there is a tax on electricity, which is directly dependent

upon the revenue. Income taxes depend upon the net income and certain other expenditures are made as a certain proportion of gross revenue. In many industrial concerns, for example, a certain percentage of gross is spent upon advertising. Hence it is apparent that any specific cost may be caused by:

1. The quantity of the commodity.
2. The number of consumers.
3. The maximum rate of demand.
4. The revenue received.

THE specific cost may be caused independently, or by the simultaneous interaction of two or more of these physical factors.

Now, as to this much-talked-of question of distribution costs.

The cost of distribution is a very variable item. It includes all those costs of operating and maintaining substations and lines, transformers, meters, and services as well as the fixed charges on the investment. The operating charges consist of four principal items, known technically as:

1. Superintendence.
2. Substation expense.
3. Line operation.
4. Meter and transformer operation.

SUPERINTENDENCE is most closely related to the amount of revenue that the company receives. That is to say, the salaries paid are probably unconsciously determined by the number of dollars that the company takes in. However, in spite of this relationship it is usually considered to be a commodity (or energy) cost with a value of about $1\frac{1}{2}$ mills per kilowatt hour sold. Obviously the number of consumers, kind and extent of the distribution system, and many other factors

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involved will also be of importance.

The substation expenses as also the line operation charges are very variable. They are probably caused by and doubtless should vary with the investment. But as with superintendence expense various statistical studies have shown that the greatest correlation is shown with the revenue received. The value varies from about 5 per cent of the revenue for companies selling mainly to residential sales consumers to as high as 8 per cent for those with large low-priced sales.

Meter and transformer operation and maintenance is the only simple phenomenon. It is statistically and causally related to the number of customers and is very definitely a customer cost with an average value of about \$2.50 per customer per year and varying very little from this value with any other factors.

The investment in a distribution system consists of three principal subdivisions:

1. Substations.
2. Lines.
3. Services, meters, and transformers.

SERVICES, meters, and transformers are obviously caused by the consumer and there is very little variation

with capacity. For the average company this will amount to about \$36 per consumer but will range between \$27 and \$45. The three items will be approximately as follows:

Services	\$ 8.00
Meters	12.50
Transformers	15.50
\$36.00	

THE service investment will be very much higher for underground distribution while the meter investment is surprisingly constant. The cost of transformers is very variable depending as it does both on the capacity per installation and the capacity per transformer. The cost per kilowatt decreases as the capacity per transformer increases and the presence of large consumers on the lines is a distinct help toward lowering the unit cost for the small consumer.

Where only domestic consumers exist this unit of transformer investment per consumer may run up to \$30 or even \$40 per customer, while the presence of a few large consumers, necessitating large transformers with a low cost per kilowatt of capacity, will bring this down materially to perhaps \$10 per consumer.

However, an analysis of the cost



Summary of Costs

	<i>Customer A</i>	<i>Customer B</i>	<i>Customer C</i>
Revenue received	\$24.00	\$36.00	\$72.00
Kw. hr.	300	600	1,800
Production cost in ¢/kw. hr.	2.00	1.75	1.50
Production cost/customer	6.00	10.50	27.00
Distribution cost/customer	12.55	15.88	26.02
Commercial cost/customer	6.50	7.00	7.50
Total cost/customer	\$25.05	\$33.38	\$60.52
Net to company	\$1.05	\$2.62	\$11.48
Added cost	8.33	27.14

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variation of the substations and lines is far from simple. A public utility like any other business is primarily interested in obtaining revenue and retaining as much of that revenue as the courts and commissions will allow.

Many capital expenditures are made purely to take on new business. A study of several hundred companies shows that the investment in lines and the distribution portion of the substation approximates a dollar of investment for a dollar of revenue. On this basis, the domestic consumer who pays the highest unit revenues receives proportionally the highest line investment while power consumers, who receive the benefits of low unit revenues and who are best able to make their own investment in lines, receive a correspondingly lower line investment.

To summarize these statements let us consider three different consumers and see how the unit cost of distribution varies with the consumption.

To complete the story let us add the production cost considered as delivered to the load center substation, which would be slightly higher than the widely advertised average of 1.5 cents per kilowatt hour. Realizing that the small consumer with the poor load factor would incur a higher production cost than the large consumer with the better factor let us assume 2 cents, $1\frac{1}{3}$ cents, and $1\frac{1}{2}$ cents per kilowatt hour respectively. Also taking account of the cost of reading meters, collecting, and the fixed charge in the general office we will have an average figure of about \$7 per year but with what little variation we may have to the benefit of the small consumer.

From this it is seen that while the first 300 kilowatt hours cost the company about \$25, the second 300 were delivered at but one third of that cost and the 1,200 additional at a still lower unit cost. Or, to reduce this to unit costs while the first 300 cost over 8 cents per kilowatt hour, the second 300 cost but little more than $2\frac{1}{2}$ cents per kilowatt hour and thereafter at a little over 2 cents per kilowatt hour. These figures are, of course, assumed and are merely approximate intending to show a tendency only and not to be adopted as definite and necessarily correct.

Distribution cost, therefore, is distinctly a variable.

Its determinants are many and their relationships complex. It may be considered to be made up of a number of semi-independent parts; first, a cost which is fixed with any normal consumer; second, something to be added to this which is dependent upon the demand; third, a part which is pseudo-causally related to the revenue; and, fourth, a part which depends upon the amount which is consumed. This latter is usually the least. Of course there are other variables that enter in and may increase or decrease the cost, such as the number of consumers per mile of line, the type of service demanded, etc. Usually, though not necessarily, these are of a minor nature as compared with the others.

One is left to ask, however, if there is any hope of reduction in distribution cost and now the answer is infeasible.

As distribution cost varies very little with the use of the commodity the unit cost will be reduced by

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increased consumption. In other words, the more each consumer uses the less he will have to pay in relation to what he has already paid. But increased consumption can only be expected if rates are such that this increased consumption will be worth while to both the consumer and to the utility.

It must be recognized that electricity is far more a service than a commodity and the consumer must be willing to pay a relatively high service charge and then his electricity will cost very little per unit of consumption.

THE utility managers may, however, ask: Why should such increased use be encouraged as we can

only earn a fixed amount depending upon our investment?

It is imperative for the full future growth of the electric industry that regulation by profit limitation be removed. Such a method of regulation is contrary to the existing American economic ideal and is, under our present social system, a vicious thing encouraging operating and capital inefficiency and legal evasion.

Regulation might better set upper limits to rates by comparison and concern itself with quality of service allowing the utility to lower rates if it so desired and earn more, and perhaps to share its increased earnings with the consumer, with labor, and with the management.



Thumb-nail Essay on Critics and Criticism

GENERAL HUGH S. JOHNSON recently took **G**a slap at NRA critics with a frog story. He was reminded, he said, of a famous chef who went out West in the early days because some big butter-and-egg man had told him that right on the edge of his ranch there were "millions of bull frogs."

The butter-and-egg man knew that because he had heard them filling the night with their ke-dunking.

But the chef found there were exactly three bull frogs making all the noise.

* * *

General Johnson's point is a good one.

The critic, like the man who walks out of a meeting because he does not like something that has been said, often attracts more attention than he deserves. But the fact that he makes a great noise and gets noticed does not mean that he is right or that he has a large following.

* * *

On the other hand, is some attention to criticism not worth considering?

A certain public official, upon assuming office, asked for suggestions for the improvement of the service of his department. Some of the letters in reply to that request came from the inmates of a state insane asylum.

"Strange to say," declared this official, "some of these suggestions were very good, and worthy of being followed."

* * *

This would seem to indicate that it might be worth while not to ignore criticism from whatever source it emanates—even criticism coming from enemies. Valuable ideas often come from critics least qualified by training and experience to express opinions.

But that does not mean that the critic is always right and that we should pay more attention to criticism than we think it deserves.

We must not allow ourselves to be fooled as to the extent or seriousness of criticism by the noise it makes.

Above all we must not allow ourselves to be intimidated by criticism.

What Others Think

Do the Utilities "Deserve" a Square Deal?

MANY utility men, meaning those either connected with the operations of, or interested in, the securities of privately owned public utilities, are claiming that they are finding out the real definition of that often-used expression, "A Chinaman's Chance." The New Deal, they assert, has promised hope and comfort to other industries, farmers, labor, and consumers, but has deftly passed by the private utilities on every occasion. They claim that the administration has disregarded all appearance of equity or justice and is engaged in an openly punitive campaign against them, presumably for past offenses real and fancied. They feel that their chance of a square deal from the New Deal has become distinctly oriental and that the cards in the administration's deck have been grossly stacked against them.

And what is the answer to these charges of persecution? Officially, of course, the administration does not notice them but friends of the New Deal occasionally answer such charges through unofficial channels, and in this instance we have a reply (not labeled as such) from Professor James C. Bonbright, published in the *Independent Journal* of Columbia University. Professor Bonbright speaks with considerable authority. As an active critic of private utility operations in New York state during President Roosevelt's term as governor, he did much to form in the President's mind his avowed critical attitude toward private utilities and their regulation as heretofore practiced. It is not unlikely that the President still sees eye to eye on the utility control question with Professor Bonbright.

Indeed, Professor Bonbright tells us himself that former Governor Roosevelt

of New York was influenced greatly by the resolutions contained in the reports (the minority more than the majority reports) of the Commission on the Revision of Public Service Commission Law. He recalls for us how six members of this commission (all Republicans) were appointed by a Republican assembly while three (including Professor Bonbright) were appointed by the governor. The majority (consisting of the assembly appointees) reported that, while certain extensive revisions were necessary, commission regulation as a whole was satisfactory. The minority (consisting of the governor's appointees) reported that state commission regulation was unworkable and recommended regulation of private utilities by competition from publicly owned utilities. The governor, Professor Bonbright recalls, believed in the minority report and attempted to put its recommendations into legislative form but was repeatedly balked by a Republican legislature.

THIS is all by way of foundation. Now to come to the question, do the utilities deserve a square deal? Professor Bonbright's article did not purport to answer the question in that form but it does so, nevertheless, quite effectively. He denounces what he feels has been abusive exploitation of the people by utilities through excessive rates. He feels that this situation has not and cannot be corrected by state commission regulation under the prevailing state of the law. As an example he points to the New York city electric rate situation, where, notwithstanding the diligent efforts of Chairman Milo R. Maltbie, the New York commission has been hindered in putting into effect its

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rate reduction orders. As long as utilities avail themselves of these economically unsound but apparently legal defenses, Professor Bonbright believes that the Federal government is justified in warring upon them through equally legal channels of its administrative branch as distinguished from its judicial branch. Professor Bonbright stated in part:

"Instances like this, I take it, together with the disgraceful conduct of the public utility holding companies, is what has led the President to insist on new devices for protecting the interests of the consumer in our vital public services.

"One of these devices, and most repugnant to the utility interests themselves, is the construction of large public power projects such as the one at Muscle Shoals or the proposed St. Lawrence river development. These projects are designed to insure reasonable rates, either by sale of the power direct to municipalities or through contractual agreements with private distributing systems.

"I have no doubt that the fears of those who have invested in public utility securities are well founded. The only possible way, however, to guard against the dangers of competing public enterprise is through co-operation between the private companies and the experts in regulation, looking toward an entirely new system of rate control and financial management. The 'present value' doctrine must go and the companies should help to hasten its demise.

"Many of the utility holding companies have no sound reason for existence. They should be dissolved just as various anti-social trusts have been dissolved. Most of the remaining holding companies, and many of the operating companies, are grossly overcapitalized. A drastic scaling down of their capital structures is called for. But the immediate requirement is that domestic rates should be reduced so that they will conform more closely to the rates already charged by municipal plants and even by the most progressive private companies themselves.

"These reductions impose heavy risks on overindebted companies, for they will probably result in a temporary fall of earnings pending the time when a corresponding increase in business will take effect. But this risk must be taken as the only effective means of meeting the threat of government competition. In short, the only successful means of fighting government ownership is to make it unnecessary.

"The people who have invested in public utilities can best save their own skins by bringing pressure to bear on their company

managements to force the latter into putting their own house in order. Without revolutionary changes in the system of regulation private ownership is bound to fail. The whole legal doctrine of 'present value' as a rate base should be not merely modified but abolished, and in its stead there should be adopted the principle so forcibly defended by Justice Brandeis, that a utility is entitled to earn a fair return on the capital actually and legitimately invested."

THE immediate abolition of the "present value" theory of rate-making valuation and the substitution of the "prudent investment" theory, therefore, is the chief condition which Professor Bonbright would impose if utilities want a truce or any consideration from the New Deal. Until they do this they are to be considered as unrepentant sinners against society and disciplined as such by the government upon every opportunity offered. Doubtless there are some companies who would jump at the chance of stabilizing their rate bases in terms of original investment, especially during this period of depressed "present value" prices, but Professor Bonbright leaves it clear that such investment valuations would have to be "prudently" pared to the bone even at the expense of defaults in or writing off of existing security issues, in order to qualify for New Deal approval. Will the utilities make this sacrifice or will they take their chances with the path laid down by a Supreme Court which, as Professor Bonbright states, "failed to see the distinction which lies between the function of utility regulation and that of measuring compensation under the law of eminent domain?"

IN striking contrast to Professor Bonbright's excoriations of the public utilities, Joseph Stagg Lawrence, editor of the *Econostat*, states the case for the utilities in accusing the Federal government of stacking the cards, hitting below the belt, and other practices of doubtful sportsmanship. He points out that the administration has taken care to assure "fair competition" in every other industry, but has proceeded to

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The Montana Record-Herald

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violate all its own rules for fair competition in its own dealings with utilities. He regards the various Federal power projects as a wasteful duplication of existing adequate facilities by govern-

mental units which refuse to abide by a code that is forced upon their private competitors. Speaking particularly of the surplus power facilities in the Tennessee valley, Mr. Lawrence states:

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"The G.H.Q. of the TVA does not care to wait for this future growth to justify its operation. It has bribed the city of Knoxville to construct duplicate facilities which will destroy the value of the Tennessee Public Service Company plant now providing power for the city. The company offered to act as the distributor for TVA power and failing that has advertised the sale of its facilities to the city to avoid the necessity of a bond issue and the superfluous construction of a duplicate plant. To both proposals the New Deal conscience has turned a deaf ear. The holders of Electric Bond and Share securities, who are the owners of the Tennessee Public Service Company, can see in this conduct nothing but an act of sheer proprietary vandalism by an inspired and misguided government.

"The 30 per cent outright grant which the PWA made to Knoxville for construction and the purchase price of the bonds which cover the remaining 70 per cent of the cost both come from the \$3,300,000,000 public works fund appropriated by the last Congress and will be paid for ultimately by the very owners of the securities the value of which the government is now deliberately destroying. The financial condition of Knoxville is rotten. Its credit warrants neither a loan nor the increase in its operating costs which socially distributed power is certain to bring. The only difference between power distributed on a social basis and power distributed on a private basis is that the former, like subway operation in New York city and Uncle Sam's experiments in orderly marketing of farm products, is certain to result in a continuous loss to the distributor. If a private banking house tried to sell these Knoxville bonds to the public at par on a 4 per cent basis it would be laughed out of the fraternity. If it succeeded, an indignant Senate would have all the partners lined up against a stone wall at sunrise. The PWA cheerfully buys the entire lot.

"During the past two months public utility securities listed on the New York Stock Exchange have lost \$306,000,000 of their aggregate market worth. At the same time the total value of the other listed stocks increased slightly. Electric power production is holding up well. The utilities are as ably managed as any other industry. The demand for power is much less volatile than that for most other products and services. Utilities by their nature enjoy in most communities a legal monopoly. Business is forging ahead slowly but, nevertheless, surely. The decline in the value of utility investments cannot be ascribed, as Dr. Morgan vainly attempts, to the 'propa-

ganda' of utility executives. That hypothesis violates common sense, the self-interest of the utilities, and the known facts. The latter are unmistakable. The government is fighting an opponent whom it has first taken the precaution to hobble. It is wearing horse shoes in its gloves, hitting below the belt, and itself acts as referee and judge. Its attitude toward the utilities violates every known rule of fair play."

THE foregoing reference to the capitalization or overcapitalization (as one cares to view it) of utilities in the United States recalls a passage of the recent quinquennial report of the U. S. Census Bureau which has somewhat escaped general attention by reason of the greater attention bestowed upon the comparative rate data of the same report. According to the Census Bureau, fixed capital assets of the privately owned light and power industry in the U. S. in 1932 were \$14,370,420,592. Capitalization was as follows: In "long-term" debt, \$6,678,761,901; in stocks, \$6,935,848,539, or a total indebtedness of \$13,616,610,440 against which reserves aggregated \$1,381,566,874. Compared with other industries, these general figures reflect a very sound and sane balance as to fixed capital, capitalization, and reserves. There is little evidence, as far as this report goes, of watered stock although we must remember that only the operating utilities were considered—not the nonoperating holding companies. Compare these figures to the official figures for municipal utility financing. Fixed capital of municipal utilities was placed at \$613,076,599. Long-term debt was \$208,975,676; cash investment, \$250,319,737, and reserves \$91,947,532.

—F. X. W.

UTILITIES FACE THE NEW DEAL. By James C. Bonbright. *Independent Journal of Columbia University*. December 18, 1933.

FAIR PLAY FOR THE UTILITIES. Editorial. *The Econostat*. December 16, 1933.

QUINQUENNIAL REPORT of the U. S. Census Bureau. 1933.

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New Year Executive Messages Presage Increased Regulatory Activity

JANUARY, the month of frozen lakes, flaming fireplaces, and new resolutions, is also becoming more and more the month of convening legislatures and the season for executive messages. January 3, 1934, saw for the first time a Congress of the United States convening pursuant to the recently ratified Twentieth (or Lame-Duck) Amendment to the Constitution. President Roosevelt on that day delivered in person his message to the Congress and those interested in utilities and their regulation anxiously awaited some mention by the President of the future policy of the administration in that regard.

Those who expected a clear declaration of utility policy were disappointed because the President made no specific recommendations in his message, contenting himself with a general discussion of the difficulties that confront the administration and a general description of the steps taken or to be taken to overcome them.

TWO passages of the message, however, lent themselves readily to conjectural interpretation. First of all, speaking of the need for balance between the agricultural portion and the urban portion of our government, the President stated:

"In this field, through carefully planned flood control, power development, and land use policies, in the Tennessee valley and in other great watersheds, we are seeking the elimination of waste, the removal of poor lands from agriculture, and the encouragement of small local industries, thus furthering this principle of a better balanced national life. We recognize the great ultimate cost of the application of this rounded policy to every part of the Union. Today we are creating heavy obligations to start the work and because of the great unemployment needs of the moment. I look forward, however, to the time in the not distant future, when annual appropriations, wholly covered by current revenue, will enable the work to proceed with a national plan. Such a national plan will, in a generation or two, return many times the money spent on it; more important, it will

eliminate the use of inefficient tools, conserve and increase natural resources, prevent waste, and enable millions of our people to take better advantages of the opportunities which God has given our country."

THIS could be readily interpreted as meaning that the Federal government under President Roosevelt will continue its present power policies and that projects will be operated by the government upon a self-sustaining basis. Another passage presages hope to some utilities that the administration's apparent war against them will end. It was as follows:

"The unnecessary expansion of industrial plants, the waste of natural resources, the exploitation of the consumers of natural monopolies, the accumulation of stagnant surpluses, child labor and the ruthless exploitation of all labor, the encouragement of speculation with other people's money, these were consumed in the fires that they themselves kindled. We must make sure that as we reconstruct our life there be no soil in which such weeds can grow again."

This might reasonably be interpreted as meaning that the hard road of correction and discipline for utilities has been accomplished and that from now on they will be permitted to build in peace, provided they abstain from duplicating former abuses. The news of the accord between the TVA and the private power companies in Alabama, Tennessee, and Mississippi, following as it did hard upon the President's message, would seem to bear out this construction.

ELSEWHERE the executive messages were not susceptible to such conciliatory construction. The gubernatorial executives of New York and Pennsylvania, both told their legislatures that they will expect more stringent regulatory enactments during the current session. Governor Pinchot of Pennsylvania said in part:

"A most glaring example of sacrificing the interest of the many to the profits of

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the few is found in excessive public utility rates. Nearly every householder in Pennsylvania suffers from unfair and unnecessary increases in rates made without the consent of the public service commission.

"No increase in rates should go into effect without the permission of the commission. Thus the burden of justifying a raise in rates would always be on the company which originates the rates, as it should be.

"I remind you of my recommendation that no company should be allowed to increase any rate until after such rate has been submitted to the public service commission and permission has been given to put it into effect. No other single provision of law dealing with public utilities would so greatly help the householders of Pennsylvania or so clearly result in the greatest good to the greatest number."

GOVERNOR Lehman, addressing the New York legislature, asked that municipalities of that state be given a "potent weapon with which to compel existing public utility companies to provide them with electricity at reasonable rates under threat of municipal competition." He wants also prompt development of the St. Lawrence water power resources. Governor Lehman added:

"Pending the final settlement of this problem I repeat the recommendation made to you last year, that you adopt legislation to permit municipalities of the state, after approval by a referendum vote, to purchase and sell electricity developed from the St. Lawrence river. Municipalities will in this way be able to buy cheap electricity, and at the same time be given a potent weapon with which to compel existing public utility companies to provide them with electricity at reasonable rates.

"Recently the public service commission has announced that new uniform systems of accounts, which have been in preparation nearly a year and a half, have been promulgated for use by many of the utilities, including gas and electric companies. The institution of these uniform systems constitutes one of the most important advances in the regulation of public utilities in this state. They will readily enable both the consuming public and the investors to know the true condition of any public utility company. Among other things, the systems will require that accounts for operating property, previously carried as fixed capital, shall be carried at original cost; they will provide for the use of what is known as straight-line or age-life depreciation and they will require the keeping of a continuing plant record, similar to the perpetual inventories ordinarily kept by industrial

corporations, which will show property added and retired at the original cost.

"Last year, during the regular session and again during the first extraordinary session, I made several recommendations to the legislature for the more strict regulation and control of the great public utilities companies in this state. I do not know or understand the reasons which impelled the legislature to ignore the major and vital portion of these recommendations. And so the many abuses in the operation of public utilities companies persist. These can be and should be corrected at once. Therefore, I repeat to you my recommendations. This year, I hope and confidently expect that your honorable bodies will enact:

"1. Legislation permitting any municipality to construct or acquire a public utility plant and sell its service to its inhabitants and any surplus to residents outside of its territorial limits. This bill should also provide that one or more municipalities may combine in the formation of a public utility district. It should not be mandatory but purely permissive legislation, to become operative only after the whole project, including all the details of the financing, construction, and operation, shall have been submitted to the residents of the municipality for their approval;

"2. A bill clarifying and extending the powers of the commission so that it can order temporary decreases in rates;

"3. Legislation authorizing the commission to assess against a public utility such portion of the expenses of the commission as is reasonably attributable to an investigation, valuation, or revaluation of that public utility, provided, however, that the amount so charged in any calendar year shall not exceed a certain percentage of the gross operating revenues derived by such corporation from intrastate service;

"4. Legislation authorizing the commission to charge utility companies fees for the filing of applications, recording of tariffs, rate schedules, and other documents;

"5. A measure providing that the amount of charges made by holding companies against operating companies be limited to the actual cost of the service rendered; and authorizing the commission to strike out of the operating expenses of a company all unjustifiable charges imposed upon it by its holding company;

"6. Legislation prohibiting the payment of moneys by operating utilities to various corporations in a holding company chain for the latter's securities and services, without the prior approval of the commission;

"7. An act preventing a company from charging to its operating expenses the cost of marketing securities of a holding company;

"8. Legislation decreasing the amount of stock of another company which a holding

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company may have without specific approval of the commission;

"9. Legislation clarifying the law so as explicitly to place all gas transmission lines under the jurisdiction of the commission.

"Certain very important aspects of the powers of the public service commission are now being challenged in court. No final decisions have yet been rendered. The decisions may necessitate other legislation in order to preserve the strength of the commission. In a later message I may transmit to you additional recommendations concerning the powers of the commission and its regulation of public utilities."

OTHER governors addressing their legislatures reported progress in their plans for revitalizing utility regulation. Governor Clarence D. Martin was one of these. His message was delivered comparatively early in the season, December 5, 1933. He stated:

"You will remember that in my inaugural message I proposed a change in the policy of the department of public works, urging that the department stop waiting for consumers to complain, but rather move on its own initiative to protect the people by requiring proper revision of utility rates. Your honorable bodies cooperated by providing necessary legislation. Now, then, I am pleased to report that the department has been vitalized and is functioning in strict accordance with our orders—revising rates, regulating valuations, preventing inflation of capitalizations, and otherwise seeing that the people are not required to pay tribute for utility services.

"Immediately after adjournment of the regular session, the department opened its drive for just and fair utility rates. So far forty-nine cases have been filed, of which forty-eight were filed on the initiative of the department. This includes investigations of five major power companies and two major telephone companies, which are under progress, and a completed investigation for revision of street lighting rates in 150 communities throughout the state. Hearings on these cases will be started in the course of a few weeks.

"So far, the department has issued twelve orders, requiring rate reductions of from 5 to 40 per cent, saving around \$400,000 a year for the consumers. In addition, orders are being prepared in fourteen other cases. Then, in the interstate field, the department opposed increases in rail rates, opposed surcharges on a number of commodities, and managed by these proceedings to save more than \$400,000 annually for the shippers of Washington. Moreover, by virtue of the occupational taxes upon public utilities, the utilities have been required to absorb more than \$2,225,000 annually in state and Federal taxes."

—F. X. W.

MESSAGE TO CONGRESS. By President Roosevelt. January 3, 1934.

ADDRESS TO PENNSYLVANIA LEGISLATURE. By Governor Pinchot. December 5, 1933.

MESSAGE TO NEW YORK LEGISLATURE. By Governor Lehman. January 3, 1934.

MESSAGE TO WASHINGTON LEGISLATURE. By Governor Martin. December 4, 1933.

Truce in the Tennessee Valley

FOUR operating company affiliates of the Commonwealth and Southern Corporation, furnishing electric service in the Tennessee valley area signed a contract on January 6, 1934, with the Tennessee Valley Authority settling the highly controversial issue of territorial division between the contracting parties. Thus was the new year of 1934 started off on the right foot for the private utilities because, following as it did fast upon the heels of the President's message to Congress in which he implied, according to pro-utility interpretation, that the hard road of correction for the utilities has been traveled, this first im-

portant evidence of the Valley Authority's desire to avoid the destruction of "prudent investment" in privately owned utilities would seem to corroborate the rumors current in Washington that the administration has declared an end or at least a truce in its war upon private utilities, and that there will henceforth be a new accord and a community of purpose between the Federal and private power programs.

More specifically the terms of the contract appear to insure that private utilities operating within the possible Tennessee valley area will be safe from further Federal invasion of their terri-

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tory for at least three and possibly five years. The *Wall Street Journal* stated:

"Statement of this policy by David E. Lilienthal, TVA power director, is backed by provisions in the contract for interchange of electric energy to avoid duplication of private power lines by the TVA, and to permit apportionment of market areas to the facilities best adapted to serve them. If the contract may be accepted as representative of the TVA's policy, private utilities in the Tennessee valley apparently will not be 'raided' by Federal competition, at least for the next three to five years."

THE value of about \$3,000,000 of transmission and distribution lines was involved. In short, the TVA will obtain immediately an urban and rural market for power in a specified area in Mississippi, Tennessee, and Alabama, carved out of territory formerly served by the Alabama Power Company, Tennessee Electric Company, and Mississippi Power Company. The contracts were to terminate upon completion of Norris Dam which is expected to take at least three years. Major provisions of the contract were as follows:

1. Purchase by the TVA of approximately \$3,000,000 of property from the Alabama Power Co., Mississippi Power Co., and Tennessee Electric Power Co. by which the Authority obtains immediate urban and rural markets for its power in Tennessee, Alabama, and Mississippi.
2. Sale of company facilities to municipalities in the Mississippi counties affected.
3. Sale of company facilities in the affected Alabama counties to the municipalities by the Alabama Power Co.
4. The TVA is granted options to buy company facilities in municipalities in Tennessee counties affected.
5. The Tennessee Electric Power Co. agrees to reduce rates to the level of those set by the Georgia Power Co.

THE contract further stipulates agreements as to market areas and power interchange rates between the TVA and power companies and arranges for the sale of electric appliances through the Electric Home and Farm Authority—a TVA subsidiary.

The TVA purchased the Alabama and Mississippi properties for \$2,000,000 and paid \$900,000 for the Tennessee properties involved. The private

companies agreed not to sell electricity in territories where their former properties are located while the TVA in turn agreed not to go outside of its own new service area. Mr. Wendell L. Willkie, president of the Commonwealth and Southern said that the properties turned over to TVA had an annual gross earning power of approximately \$1,000,000 as compared with \$50,000,000 gross earning power of the rest of the properties operated under his company. It will thus be seen that the net effect of the contract is that TVA has "bought out" about 2 per cent of the Commonwealth and Southern business and that it will confine itself to that area for at least three years. Mr. Willkie added:

"The agreement gives to the electric consumers, especially the domestic and rural consumers of the Tennessee valley the full benefit of the synchronized facilities of the government and the subsidiaries of the Commonwealth and Southern Corp., and to the extent that the use of such facilities can contribute to the further growth of the Tennessee valley everything that can be done by the government and the power companies is possible under its terms. It also gives time for deliberate consideration of the many problems involved and their determination after actual experience has been had."

THE statement by Mr. Lilienthal who concluded the contract on behalf of the TVA clearly indicates that the new territory will absorb all of the immediately available power from Muscle Shoals. Mr. Lilienthal said in part:

"The area ceded by this contract, together with the city of Knoxville, which recently voted to become a wholesale purchaser of Muscle Shoals power, added to the requirements of rural electrification projects now under way, and demands in territory outside the ceded area will absorb virtually all of the power which Muscle Shoals can produce. Allowing a safe margin for increased use of electricity which the Authority's low-cost appliance program is certain to induce, the precise boundaries of the area chosen were determined by the physical location and sizes of existing transmission centers. Obviously the Authority could not undertake to serve all of the 200 communities which were applicants. A selection had to

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be made, so that the area served would not demand more than the available power. The area selections exclude, for the time being, many communities applying for power, but drastic exclusion was necessary in the nature of things. The area selected in our best judgment is a reasonably compact, concentrated, and balanced area, including rural, village, town, and city operations, with a fair industrial load. The areas selected are in proximity to Muscle Shoals and to the transmission line which will connect Muscle Shoals with the next source of power, namely, Norris Dam. The authority, under the contract, may extend its operations outside of the selected territory, if it can supply sufficient power to do so. For example, it may serve municipalities outside of the contract territory served by companies other than Commonwealth and Southern companies, or cities which operate their own generating and distribution plants. The contract leaves with the Authority the right to sell power to agricultural users in additional territory in Tennessee and Mississippi, and a general allocation is made for rural users and small industries anywhere in the valley basin."

BOTH conservative and liberal publications professed to see in the TVA-private utility accord highly desirable results. The *Washington (D. C.) Post*, newly owned and operated by Mr. Eugene Meyer, former big gun of the Hoover administration, editorially praised the truce in the Tennessee valley in part as follows:

"The agreement reached at Knoxville last week between the TVA and the Tennessee, Alabama, and Mississippi power companies, in effect carved a fourth state in the Tennessee valley and allotted it to the government as the territory in which it should conduct, without competition, its 'yardstick' experiment in the production and sale of hydroelectric power.

"Whatever the reasons which may have impelled them, the power companies manifested a fine spirit of co-operation. They sold to the TVA all their properties in counties in the new 'fourth state.' Agreements were also made that the government and the power companies would not invade each other's territory and that the power companies would deliver power to government customers in return for government power, making it unnecessary to build competing parallel transmission lines. Wasteful expenditures for competitive purposes were saved on both sides."

THE *Washington (D. C.) Daily News* (Scripps-Howard) likewise

praised the accord, but for different reasons. The *News* saw chiefly another demonstration of the efficacy of the "birch rod" method of bringing about lower electric rates. The *News* editorially stated:

"The President's power yardstick is working. Within six months since its creation, the Tennessee Valley Authority has scaled down electricity bills in that area by hundreds of thousands of dollars.

"Written into the contract announced yesterday between the TVA and three Commonwealth and Southern operating companies in the Tennessee valley was a provision that the operating company in Tennessee should reduce its rates to the same level that the Alabama and Georgia companies had recently reduced theirs.

"It was revealed that the Alabama and Georgia reductions, ordered by the state utilities commissions, were due to the TVA. The reductions amounted to from 15 to 28 per cent of old rates.

"Amusingly, the Tennessee commission, in whose area the latest reduction was negotiated directly with the TVA, reported to the state legislature last year that a 25 per cent cut would destroy the company's financial stability."

THE conservative *Barron's* financial weekly, on the other hand, saw in the contract the first real evidence of the TVA's alleged interest to avoid wasteful duplication of facilities. It stated:

"Contract signed only a few days ago between the Tennessee Valley Authority and four companies of the Commonwealth and Southern Corp. operating in the Tennessee valley area is now being studied carefully for the light that it may throw on the future dealings of Federal power agencies in their contact with the private utilities. Its first importance rests in its possible delineation of broad general policies to be followed by the government and only secondarily in its immediate effect upon the four operating companies. The first impression is that it could be worse. The contract denotes a willingness to avoid direct competition with the private utilities providing the private companies are willing to sell their facilities on what the TVA considers reasonable terms in order to make a market for the government power. In the words of Power Director David E. Lilienthal, 'The agreement is a demonstration of the Authority's often-expressed policy to carry out the mandate of Congress and yet avoid the destruction of prudent investment in privately owned public utilities.'"

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THE liberal and usually antiutility *Indianapolis News* rejoiced that the "prudent investment" standard was apparently used to determine the price to be paid for the private property sold to the TVA. It stated editorially:

"By not working from what the consumer can pay or from what the investor spent, but from the reasonable value of the plant used in producing and distributing current, the government feels that it has been fair to all. Certainly it has proceeded along the right line. It is not fair to investors to subsidize power sales. The government should insist that the rates yield a fair return on the prudent investment. To take the people's tax money for financing a subsidy that will enable patrons to get their power for less than it costs is, of course, to get nowhere, for they pay in taxes all that they save in power bills."

"From the investment view, it is equally clear that the government cannot undertake to assure a return on stock and bonds issued unwisely by utility boomers, and sold to persons who did not know that they were

investing in an overcapitalized project. . . .

"If the government can keep to the prudent value principle it will not go far wrong in its own experiments, and it will set an example that will be of benefit to power users throughout the country, particularly in communities that have been forced, through the faithlessness of public service commissions and public officials, to pay dividends on exorbitant valuations for rate-making purposes."

—F. X. W.

NEW TVA CONTRACT INDICATES ATTEMPT TO AVOID DESTROYING "PRUDENT INVESTMENT" IN UTILITIES. *The Wall Street Journal*. January 6, 1934.

TVA AND THE UTILITIES. Editorial. *The Washington Post*. January 7, 1934.

THE YARDSTICK WORKS. Editorial. *Washington Daily News*. January 6, 1934.

TVA SHOWS COÖPERATIVE SPIRIT. Editorial. *Barron's*. January 8, 1934.

FEDERAL POWER POLICY. Editorial. *Indianapolis News*. January 8, 1934.

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THE POWER DEBATE: THE CASE FOR THE UTILITY COMPANIES. By Norman R. Gibson. *New York Times*. December 10, 1933.

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PENDING LEGISLATION CONCERNING UTILITIES. By Ray Garrett. *American Gas Association Monthly*. December, 1933.

SQUARE DEAL IN POWER BUSINESS. By Frank T. Post. *Public Service Magazine*. December, 1933.

TAX FREE TOWNS. Three articles in *Public Service Magazine*. December, 1933.

"TAXLESS TOWNS" AND MUNICIPAL PLANTS IN MICHIGAN. *Electrical World*. December 9, 1933.

THE COST OF DISTRIBUTION. *Electrical World*. December 9, 1933.

THE "NEW DEAL" FOR UTILITIES. *Public Service Management*. December, 1933.

The March of Events

Missouri Valley Bill Up

A BILL to control flood waters of the Missouri river and its tributaries, and to convert the river basin into a vast fertile and productive area was introduced in the Senate on January 5th by Senator Norris (R., Neb.), author of the Tennessee valley program.

Mr. Norris' proposal would develop much water power. The bill provides also for the connecting of dams by transmission lines and construction of lines to municipalities and farmers' organizations. Preference would be given municipalities in the sale of power.

"It is believed," Mr. Norris said, "that if this bill is enacted into law, we will improve the navigability of the Mississippi river and we will improve and extend the navigability of the Missouri river 'way beyond any extension that has taken place in the past.'"

Allege Securities Misstatement

FIRST action under the "truth in securities act" to determine the accuracy of statements by corporation officials in issuing securities has been initiated by the Federal Trade Commission against the Laclede Gas Light Company of St. Louis. The commission set January 12th for a hearing in Washington to determine whether the company's denial in its registration statement that it was involved in suits affecting the value of the issue was a misstatement.

The commission said it had learned that the company did have pending suits involving rates, and will seek at the hearing to ascertain if such suits were not materially important to investors. The amount involved is \$3,000,000 in refunding bonds which have been distributed to a relatively small number of holders in exchange for old securities. They fall due in 1963 and were used for exchange in connection with an issue of \$20,000,000 of bonds due early this year.

Protest Postal Order

PROTEST against Postmaster General James A. Farley's order prohibiting use of home and office mail boxes as receptacles for such mailable matter as accounts, sales bills, and advertising circulars has been made by utility companies.

An executive of one company said the order would result in the laying off of persons now employed in delivering bills and would work hardship on utility companies by requiring them to go to the expense of mailing their bills.

Postmaster General Farley on January 6th pointed out the local postage rate for first-class mail had been cut to 2 cents "and that one of the reasons for this reduction was to enable and induce corporations and other business interests to utilize the mails for monthly statements."

ICC Federal Appointments Considered

PRESIDENT Roosevelt has sent to the Senate the nomination of Walter M. W. Spaln of Texas as an Interstate Commerce commissioner. It is said the Senate confirmation of the Spaln appointment is likely.

An appeal has been made to the Senate by William E. Humphrey, who was removed from the Federal Trade Commission by President Roosevelt, and who is testing the President's power of removal before the United States Court of Claims, not to confirm the appointment of his successor, Commissioner Matthews of Wisconsin, in order that the court's decision may not be affected by the Senate confirmation.

Census Includes Rates

A CENSUS of electric light and power rates throughout the United States will be taken in connection with the business census now under way by the Commerce Department, Representative Rankin (D.), of Mississippi, a sponsor of the Muscle Shoals government project, announced on December 29th.

The census is necessary, Rankin asserted, to provide a true record of what the American people are paying for light and power, as compared with the Muscle Shoals rates, which he called a "yardstick."

Help for Absent-mindedness

FORGETFUL Australian husbands and others now will have help in remembering their

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"best girls" birthdays and other anniversaries of importance to them.

The Australian postal authorities have announced that telephone subscribers, for a 10-cent fee, may arrange to be reminded of anniversary and engagement dates.

A prospective bridegroom thus may call "information" weeks in advance and book a reminder call. "Information" will come through at the appointed time with "Good morning, this is your wedding day."

Geologist Says Tennessee Plan "Ridiculous"

THAT part of the national administration's plan for development of the Tennessee basin which calls for the expenditure of \$75,000,000 for a 9-foot channel in the Tennessee river, and an ultimate expenditure in this river and its tributaries of \$230,000,000 for navigation facilities alone, has been condemned by A. E. Parkins, head of the geology department of Peabody college, Nashville, in an address before the Association of American Geographers.

Professor Parkins' thesis was that waterways are outmoded and there is no use in wasting any more money on them. He proposes instead the building of heavy duty automobile roads for interstate truck traffic and for the use of the motorized army in time of need.

The new work already begun in the Tennessee river, he has figured out, in addition to the work done in the past, means that ten years hence, when the project is completed,

the public will be making a total annual gift to navigation on the Tennessee river of \$8,328,000. He referred to the suggestion of the army engineers that the Clinch river, the Powell and Holston rivers, Duck and Bear creek, be similarly improved as "almost the height of the ridiculous."

"The dangerous phase of these proposed projects," he said, "is that we may be called upon to pay for them some day. All that is needed is a fortuitous concourse of selfish business men, who profit by Federal money being spent within their midst, ambitious politicians seeking votes, and thousands of emotionally constituted voters under the hypnotism of a campaign orator who can make them imagine ocean liners tied to docks of Knoxville and Tazewell, Va., and the thing will be done."

Wires Cut in Puerto Rico

PART of Puerto Rico ended the old year and began the new in darkness as transmission wires of the power company which serves the western end of the island were cut by strikers demanding lower electric rates.

It was an aftermath of the gasoline strike and consumers' boycott which was ended on December 30th when acting Governor Benjamin J. Horton ordered the price temporarily reduced from 25 cents to 20 cents a gallon.

Strikes against the telephone company and other public service corporations are threatened. Shop and operating employees of the American railroad serving three fourths of the island went on strike on December 30th demanding a 50 per cent wage increase.

Alabama

Restraining Orders Denied

PETITIONS to restrain city officials of Bessemer and Tarrant from seeking loans from the Public Works Administration with which to build city light and power plants have been denied by two circuit judges of Jefferson county.

The right of the city of Bessemer to proceed with the municipal ownership question was upheld in a brief decision by Judge Gardner Boodwyn. An almost identical decision was handed down by Judge J. Russell McElroy, in Birmingham, who had the application for a similar injunction in the case of Tarrant before him. Both petitions set up claims that the voters in the recent elections in Bessemer and Tarrant were misinformed on the ques-

The Alabama Power Company has filed protest briefs with the Alabama Public Works Advisory Board against the applications of Russellville, Decatur, Courtland, Guntersville, Hartselle, and Oneonta for loans to finance municipal electric distribution systems.

The briefs stated that the Alabama Power Company was operating under long-term franchises in the six towns and cities, and that granting of the loans would "result in the destruction and impairment of its properties in these places."

The briefs also attacked the validity of the applications, declaring they violated Alabama's Constitution fixing debt limits for cities and towns, and that bond issues to retire the loans were not properly authorized by an election as required by the municipal bond code.

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Citizens Protest Loan

A COMMITTEE of Jasper citizens has protested to the Public Works Advisory Board of Alabama against the proposal for a utility loan of \$117,000 to that city with which to build a municipal power distribution plant mainly on the grounds that the electorate re-

cently decided against such a move, and because the city is carrying a full tax burden.

Application for the loan was filed by Jasper officials, notwithstanding the recent defeat handed municipal ownership by voters of Jasper. The mayor declined to state when the question of municipal ownership would be resubmitted.



Colorado

Gas Rate Probe Advised

AS rate experts announced the first of the year that their preliminary survey of rates charged in Denver by the Public Service Company justifies a thorough investigation of the entire rate structure and the connection between the pipe-line and the distributing companies. The engineer in charge of the investigation said that "the results so far will

justify completion of the investigation—from the well to the burner."

The engineers have been working on an appropriation of \$5,000 granted months ago by the Denver city council. At that time the experts informed council that a thorough probe would require the expenditure of at least \$17,500. The utilities committee is expected to approve the recommendation for the additional appropriation.



Connecticut

Seeks Customers' Aid in Reducing Taxes

ALTHOUGH utility companies throughout the United States, it is stated, have been for many years vigorously opposing the tax burdens placed upon them and indirectly upon their customers by Federal, state, and municipal governments, the first attempt in Connecticut to reach customers directly and to enlist them in forcing reduction of governmental expenditures and taxes was inaugurated the first week in January by the Hartford Electric Light Company, according to the *Hartford Daily Courant*.

An official of the company stated that all customer bills of the company would carry on the reverse side a brief, clear statement bearing the title "Your Tax Burden" and explaining how the present taxes levied against the company are affecting the customers' bills.

The statement explains that the company in 1933 was compelled to collect on its bills an average of \$11.40 in taxes a customer as compared with an average of \$2.70 a customer in 1915 and that this burden is making the company's rate reduction program increasingly difficult.

The reverse side of the bills reads as follows:

"Our regular monthly bills include the proportionate amount of the taxes levied on your

use of electricity by municipal, state, and Federal authorities.

"The constantly growing total of taxes which we are thus compelled to collect from you in our charges makes our program of rate reductions increasingly difficult to accomplish.

"For 1915 the total taxes collected by means of your electric bills amounted to an average of \$2.70 per customer. This has now (1933) increased to an average of \$11.40 per customer (over four times as much) by the addition of new taxes and by increases in the old ones.

"Your representatives in the city, state, and Federal governments should be advised that you are aware of the heavy tax burden thus laid upon you by them.

"Do not be deceived by any statements to the effect that the taxpayers' burden is lightened by increased taxes placed on utility companies. The only dollars we have, with which to pay coal bills, tax bills, and bills of every kind, are those collected monthly from our customers.

"The best hope of relief lies in the force of public opinion directed toward a reduction in governmental expenditures."

Reductions in electric and gas rates have been impeded because of increased taxation on the utilities in the face of increased costs, according to the Connecticut Public Utilities Commission's annual report to Governor Cross.

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Florida

Phone Hearing Ordered

THE Florida Railroad Commission on January 6th ordered all telephone companies in Florida to show cause why their charges should not be reduced. February 13th was set for the hearing.

The commission reported it had received complaints that "the rates and charges, both local and long-distance, for telephone service furnished by various companies in the state of Florida are unjust and unreasonable."

The hearing will cover both local exchange charges and long-distance toll rates. Companies use various rates for local service, according to size of the exchange, zoned distance of telephones from the central exchange, and also have different classifications of rates for telephone service to business and residential subscribers.

The commission recently ordered, effective January 20th, reductions in extra charges for desk and French-type telephones and service connections.

Georgia

Complete Rate Agreements

REVISION of power rates in Georgia was completed by the public service commission on January 3rd with agreement on an order eliminating the service charge from the schedules of the Georgia Power & Light Company and cutting the bills of the consumers in the lower brackets.

None of the power rate cases based on the commission's general order to show cause why the charges should not be lowered have gone through formal hearings.

The Georgia Power Company was called first, but new rates were ordered by agreement between the company and the commission before the proceedings were well under way.

Expect Gas Rate Cut

GOVERNOR Eugene Talmadge stated on December 29th that he believes the public service commission next would take up the matter of reduction of rates to gas consumers.

Interviewed after returning from a deer hunt on Ossabaw Island, the governor said: "I guess that the public service commission will take up that matter next."

Informed of reports that the gas companies, convinced that reductions would be ordered, were making preparations to that end, the governor said, "That's just fine—mighty glad to hear that."

The governor declared that things "are looking brighter."

Indiana

Burden of Defense Put on Utilities

PUBLIC utilities in Indiana, especially those engaged in supplying electricity and gas, have been placed on the defensive, according to an Indianapolis dispatch.

The public service commission, working under a law revised by the last legislature, has laid down a policy that it may, whenever the facts justify, order operating companies to show cause why their rates should not be reduced. Thus the burden of defense, contrary to the practice that prevailed in the past, has fallen upon the utilities.

In a crusade against electric rates in Lake county, highly industrialized corner of Indiana, the grand jury indicted seven officials of the Northern Indiana Public Service Company. The indictments, something new in the way of criminal action in this state, the dis-

patch stated, charged that the Northern Indiana officials made improper entries in their books in favor of the Midland Utility Company, a holding organization. By doing so, the indictment charged, the officials diverted funds that properly belonged to the stockholders of the Northern Indiana.

In addition to bringing the indictments, the grand jury asked the public service commission to make an investigation with a view to ordering lower rates in Lake county. The grand jury report contended that the rates could be reduced at least 50 per cent without impairment of service.

The grand jury of Lake county also recommended enactment of the law to bring about more strict supervision of utility securities issues and provide for the proper disposition of the proceeds of such sales.

The refunding of contributions made to a public utility in consideration of extensions of its services instead of capitalization of

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these contributions for rate-making purposes.

A law to provide that dividends paid must be reported to the public service commission and payment of more than 8 per cent in any one year automatically would start a rate investigation.

Establishment of a depreciation order for each utility by the commission, and maintenance of a separate depreciation fund by each utility with no discretion for waiving thereof on the part of the commission.

Disallowance of all money spent by utility managers for the benefit of stockholders from operating expenses and the charging thereof to income.

Definition of an affiliate as a company in which a utility owns 10 per cent or more; or one in which two or more of the corporate directors are common, or which is managed or

operated by the same individual, group, corporation, or corporations.

Regulations for contracts of engineering, management, construction, sales, and loans between utilities affiliated.

Statutory prohibition of the use of any property or money of one utility for or in the behalf of another, or of any individual.

Criminal penalty for violation of any of the provisions of the utility act and statutory liability against those who violate it.

Statutory requirement that all meetings of Indiana utility directors be held in the state of Indiana.

Statutory prohibition against the holding of common stock in an Indiana public utility by a holding company.

Criminal penalty for false entries or records in the affairs of a public utility.



Maryland

Cleveland Named Counsel

Power to Rule Disclaimed

RICHARD F. Cleveland, eldest son of the late Grover Cleveland, President of the United States for two terms, on January 5th was appointed general counsel to the public service commission, succeeding William Cabell Bruce.

Governor Ritchie announced the appointment of Mr. Cleveland in announcing acceptance of Mr. Bruce's resignation. Both resignation and appointment were to take effect January 17th.

Senator Bruce first served the Maryland commission as its counsel from 1910 to 1922, when he resigned to enter the U. S. Senate. He was reappointed in 1928.

His resignation was tendered in order to give fuller attention to private practice, he said, and had no political connection. He declined to say whether or not he would again seek the Senate seat.

Mr. Cleveland came to Baltimore late in 1924 as a young attorney, a member of the firm of Semmes, Bowen and Semmes, one of the leading groups of attorneys in the city. Later he became interested in politics and became one of the leaders of his father's old party. He will be remembered for his speech in the last Democratic National Convention seconding the nomination of Governor Ritchie.

THE public service commission has no power to fix wages for taxi drivers, either to raise or lower them, Chairman Harold E. West stated on January 6th in indirect answer to a letter in the *Baltimore Post* from William C. Harden, who signed himself as president of the Associated Taxicab Drivers of Baltimore.

Mr. West further stated that he doubted higher taxi rates would result in higher wages for taxi drivers as long as owners could get men to drive at present wages—unless the government intervenes with an NRA code for the industry.

"I think all three members of the commission would like to see the taxi drivers get higher wages, and would like to see a code adopted for the industry if higher wages could be assured in that way," Mr. West said. "But we cannot raise wages of taxi drivers any more than we can raise wages of newspaper men."

"The commission has certain definite powers over taxi owners as over others rendering public services. One of these powers is to fix rates, hampered sometimes by court decisions.

"But we definitely cannot order any taxi owner or taxi corporation to pay certain wages."



Massachusetts

Seeks More Report Data

PROBABILITY that electric companies of the commonwealth, in filing annual returns with the state department of public utilities,

will be required to report the revenue received and the kilowatt hours sold on each rate was indicated before the state public utilities commission at a conference which was called for the purpose of discussing proposed

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changes in the uniform system of accounts.

Officials of gas, electric, water, and municipal plants attended the conference. Numerous minor changes in the tentative list prepared by the commission were suggested, but none will be adopted by the commission until a further conference has been conducted, it was said.

The chairman stated that the commission is not attempting to place a tremendous burden on the companies but is favoring changes in the present system in an endeavor to obtain additional information which would be valuable in determining reasonable rates.

Novel Rate Test Suggested

MASSACHUSETTS' "prudent investment" theory of public utility regulation, subject to national commendation and condemnation at various times during its history, has been put to a new test. The Massachusetts public utilities commission on December 29th had under consideration a definite consumer *versus* company issue: Whether the public or the investor should receive preference at the hands of the regulatory board.

The state laws provide that the investor be entitled to "fair and reasonable return." The commission has always proceeded under this statute on the theory that this return should be granted on money honestly and prudently invested, thereby giving birth to the "prudent investment" theory. On the other hand, the law provides that the rates of utilities shall not be excessive, unreasonable, or discriminatory, and it has been under this act that the commission exercises its authority of protecting the public.

The new issue was raised in a petition of the selectmen of the island of Nantucket for a reduction in the rates of the Nantucket Gas and Electric Company.

Counsel for the town argued before the commission that the public, by greatly outnumbering the investors, should receive the first consideration from the commission and a reduction in rates should be granted regardless of whether it resulted in the company operating at a loss.

Counsel for the company declared the commission should allow the investor a reasonable return even if it meant a rate of 50 cents per kilowatt hour. He warned the commission of the statutes governing protection to

the men and women who use their funds to build up a utility.

Both lawyers urged the commission to make its decision plain "Make it plain, even at the expense of being tactless," the company counsel said. "Tell the people the reasons for the position you take, for if you don't they will be back here in six months in another rate case or initiating proceedings under the law, which allows a municipality to establish its own lighting plant."

Would Extend Commission's Regulatory Power

EIGHT legislative proposals seeking to extend the powers of regulation exercised by the state public utilities commission were filed on December 29th with the clerk of the house of representatives by Attorney Wycliffe C. Marshall of Watertown.

The proposals filed are:

Requiring every legislative counsel or agent to furnish a complete and detailed statement of their direct and indirect actions in promoting or opposing legislation.

Subject to approval of the department of public utilities all expenditures for advertising made by gas and electric companies.

Giving the department general supervisory powers over associations, trusts, and companies which sell gas or electricity or materials or services to other companies under a common ownership.

Extension of the department's jurisdiction in respect to the examination of telephone companies to corporations and affiliates of such companies.

Subjecting contracts by telephone companies to approval of the department.

Subjecting agreements made by utilities for the purchase of gas or electricity and contracts for services to the department.

At the same time a petition seeking an investigation by the department of public utilities of the consolidation of the New England Telephone & Telegraph Company of New York and telephone corporations in Massachusetts, and a petition calling upon the department to inquire into the consolidation of the American Telephone and Telegraph Company of New York and the American Bell Telephone Company, were filed by Mr. Marshall.



Michigan

Votes Municipal Power Dam

VOTERS swamped the opposition to the construction of a municipal power dam across

the Kalamazoo river on January 4th by an 8 to 1 vote. Although the opposition vote was small, a last-minute campaign was carried on by both sides.

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The electors approved issuance of \$123,000 of general obligation bonds and \$225,000 first mortgage bonds against the power plant, to be used as collateral for a \$410,000 PWA loan already allotted by the Federal government.

Representatives of the Consumers' Power Company obtained an injunction against lifting the bond limitation in the city charter. The city administration next will ask that the temporary injunction be dissolved.

Liquor before Law

THE question of whether public carriers operating motor trucks which conveyed the first liquor supply from Detroit to out-state points were properly licensed, will be settled after the business of rushing the spirits to various localities in the state has been

attended to, according to the *Detroit News*. The difficulty arose when the utilities commission questioned the legality of certain truck companies to transport the liquor to cities in which they did not have a contract carrier's permit.

Assistant attorney general of the state, assigned to the Liquor Control Commission as legal counsel, advised the liquor commission chairman to proceed with shipments in spite of threats of intervention on the part of the state public utilities commission.

The assistant attorney general said he had informed state police who accompanied the first shipments by truck to arrest utility commission inspectors if they attempted to halt transportation of the cargo. "The important thing now is to get the liquor moving so state stores can open as soon as possible," he said. "If there were any violations of the utilities law, that can be straightened out later."

Missouri

PWA to Hear Utility Plans

A PUBLIC hearing on 58 proposed municipal utilities dependent on passage of the revenue bond bills which the state senate refused to call out of committee was called for on the 3rd of January by Hugh Miller, state engineer of the Federal Public Works Administration.

Lawyers representing privately owned utilities which have opposed the bills have been invited to the hearing by Miller. The hearing is limited to interests concerned, Miller said, and is not for representatives of the cities proposing to establish their own utilities with funds furnished by revenue bonds and PWA aid. If results of the meeting are not satisfactory, Miller intends to hear the 58 cities at Jefferson City soon.

It is understood Miller hopes to determine what amendments can be made to make the

bills more acceptable to the senate. The private electric utility lobby at the Capitol has opposed the four measures, according to the *St. Louis Post Dispatch*, which would authorize cities of less than 75,000 population to issue by majority vote bonds for electric, gas, water, and sewer systems.

"We have had 100 per cent coöperation in the public works program in Missouri from everybody except the utilities and certain stand pat chambers of commerce," Miller said. "Missouri belongs to the United States of America and we don't want it to become one of the utility states of America."

A move to submit a proposed constitutional amendment to voters of the state, which would enable cities of less than 75,000 population to build municipally owned electric, gas, or water utility plants, in the same manner as was proposed in Governor Park's public works bill, which was defeated, is before the house.

New Jersey

Camden Finances Aired by Public Service

PUBLIC Service Electric & Gas Company is training its guns on the financial aspect of the city of Camden, according to a Camden dispatch to the Newark *News*. In a new line of attack against the proposed municipal light plant the company on January 4th called the mayor, controller, and solicitor of the city

to the witness stand and obtained from them the statement that the city had reached its legal limit in bonded indebtedness.

The city could not build the light plant without Federal aid, the three witnesses testified. One of the officials characterized this line of attack as a "smoke screen and so much ballyhoo by Public Service in an attempt to create an erroneous impression of Camden's financial picture."

Public Service attorneys returned to the at-

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tack of signatures on petitions calling for the light plant referendum. All witnesses called to date by the company have been asked to testify concerning their signatures on the petition circulated by the New Jersey Congress of Civic Associations.

"The question of signatures has been before the courts of this state and elsewhere on numerous occasions," an official of the city said. "It has been held that to sign is to affix a signature or to make any mark in token of the approval of the paper signed, or to ratify the person's signature, even when made by somebody else. The clearest case is where the signature is written by the person's direction and in his presence. Here there cannot be the slightest question about the genuineness of such a signature. Even Public Service officials admit that this is a clear case."

Commissioner Resigns

RE SIGNATION of Joseph F. Autenrieth of South Orange as a member of the public utilities commission was received and accepted on December 30th by Governor Moore. Mr. Autenrieth was appointed to the commission in March, 1922, by Governor Edwards to fill the unexpired term of John J. Tracy, resigned. He was appointed to a full term in 1927, and was reappointed this year by Governor Moore. The resignation is effective January 15th.

Mr. Autenrieth sent a letter accompanying the resignation, stating he wished to give up the post to devote his time to his law practice. His law offices are in Jersey City.

The term of Mr. Autenrieth would have expired April 6, 1939.



New York

Lehman Prepared to Submit Utility Legislation

REPORTS that Governor Lehman was prepared to resubmit his public utility legislation followed the recommendations made in his recent message to the legislature. With the exception of one bill, the governor's program failed of passage owing to lack of Democratic votes in the senate during the last session. The bill which was enacted provided for the paying of interest by the utility corporations on consumers' deposits.

The remaining measures in the governor's program are:

Enlargement of the powers of the public service commission to inspect the books of utility corporations; assessment of a portion of the cost of rate surveys; investigations of utility corporations by the public service commission; vesting powers in the commission to order temporary decreases in rates, pending final determination. Under the present law the commission can order temporary rate increases.

Senator Charles J. Hewitt, of Locke, introduced at the opening session of the legislature on January 3rd an amendment to the public service law, authorizing the public service commission, pending final determination, to make temporary decreases and increases in existing rates, fares, and charges by public utilities where such rates appear to be in excess or where service is inadequate or inefficient. The bill was sent to the public service committee for consideration.

Frank Libby Dame Dies

FRANK Libby Dame, chairman of the board and president of The North American Company, public utility holding company, died December 30th at his home, Garden City, Long Island. Mr. Dame had been slightly ill for a week and shortly before his death suffered a stroke of apoplexy.

It is a coincidence that Mr. Dame's career, which embraced all activities of the public utility industry, including construction, development, operating, financing, and management, closely paralleled that of the company he so long headed. He began as an electrical engineer in September, 1889, and The North American Company was organized June 14, 1890, although it was not until 1920 that Mr. Dame became associated with the company.

In 1893 Mr. Dame became general manager of the Seattle Consolidated Street Railway and later general superintendent of the Tacoma Railway & Motor Company, taking part in the reorganization of several companies under the name of Tacoma Railways Company. He continued in charge of this property until 1901 when he became general manager of the Union Electric Company of Dubuque, Iowa.

In 1909 Mr. Dame became vice president of Electric Bond & Share Company. He severed his connection with that company in 1912 and later became president of Central States Electric Corporation. During the World War he served in the Facilities Division of the War Industries Board.



North Carolina

One-man Utility Commission Makes Active Start

ONE of the first orders issued by the new one-man public utilities commission, which came into being at midnight along with the New Year, was that placing rigid restrictions on the payment of dividends by utilities, the issuance of additional capital stock, and the rates of depreciation. The order, effective immediately, was issued "to protect the financial integrity of the utilities and the public interest," Stanley Winborne, the commissioner, said.

"A study of the reports of the utilities on file in this office and a study of the financial methods employed by them disclose a policy which, in some instances, is not in accord with the views of this commission," the order asserted.

"It appears that unnecessary burdens have been imposed upon the consuming public. The payment of dividends, in excessive amount, is tantamount to depleting, reducing, and dissipating the assets of the utility." The following restrictions were imposed upon the utilities:

1. No utility shall use any part of its sur-

plus in the payment of dividends on its common stock except upon showing the necessity therefor and upon authority of the commission.

2. No utility with indebtedness, in addition to that for current expenses, shall declare dividends in any amount in excess of its net income after depreciation and in no case shall the dividends exceed 6 per cent a year.

3. Where any utility without indebtedness declares a dividend in excess of 7 per cent, it will be deemed *prima facie* evidence that rates are unreasonably high and the utility will be called upon to show cause why its rates should not be immediately reduced.

4. No utility may increase its capital stock, in any manner, for any consideration except after application to and specific authority from the commission to do so.

5. Rates of depreciation are limited to 4 per cent for telephone utilities; 3 per cent for electric utilities, and 2 per cent for artificial gas utilities, and these percentages may not be unreasonably decreased to increase the net revenue.

The order was issued under authority of the 1933 statute that abolished the old corporation commission on January 1st and put its duties on Winborne.



Texas

Gas Rate Audit Started

AN audit of the books of the Rio Grande Valley Gas Company, Brownsville, has been started by auditors of the gas utilities division of the Texas Railroad Commission. Inspection of the books and records of the company will be made to determine the cost of bringing gas to the city limits of various cities in the Rio Grande valley served by the Rio Grande Company, in order to further de-

termine a fair rate to be charged consumers.

The present gas rate is 98 cents, the customer having the privilege of taking a 10 per cent discount if his bill is paid by the tenth of the month. This rate, somewhat larger than that charged in other Texas cities, is made necessary, it is said, because of the large investment, slightly over \$5,000,000, made by the company in its distribution lines in the valley and in bringing the gas from the Midland City field.



Virginia

Power Rates Reduced

A REDUCTION of approximately \$366,300 a year in the power rates of the Virginia Electric and Power Company, effective on meter readings after January 15th was the result of negotiations between the state corporation commission and officials of the company.

The rate cut was based on the valuations made by Allen J. Saville, consultant for the commission, and was designed to cut the company's net return from approximately 9 per cent to 7 per cent. The reduction will apply mainly to the domestic consumers. The minimum rate was reduced from 7 to 6½ cents on power consumed under 100 kilowatt hours and there were cuts in other brackets.

The Latest Utility Rulings

Georgia Phone Rate Cut Sustained by Federal Court

ASSURANCE that the 25 per cent rate reduction ordered for subscribers of the Southern Bell Telephone Company by the Georgia Public Service Commission will remain in effect through the long master's hearing which will precede final adjudication of the telephone company's appeal to the Federal court to enjoin the rate schedule, was given January 2nd when the utility's plea for a temporary order restraining the rates was denied by a 3-judge Federal court.

As previously agreed upon by counsel for the company and attorneys representing the public service commission, the entire case will be referred to a master in chancery who was to be appointed by the court in a few days.

The 3-judge court held that the new rate schedule is not confiscatory and, without stating what it believed to be the value of the company's properties, that "a present fair value much lower than that claimed by the complainant is indicated." The company had said that the value of its properties is \$31,931,500, while the public service commission's valuation is \$18,000,000.

The decision was handed down after the three judges had studied the evidence submitted December 11, 1933, for nearly three weeks. The company had asked a temporary writ restraining the following four orders:

1. Reduction of 25 per cent in all station rates on all residential and business telephones.
2. Reduction in installation charges from \$3 to \$2 and increase in the removal charges from \$1 to \$2.
3. Reduction in extra charge for hand-set or "French-type" phones from 50 cents monthly to 15 cents monthly.

4. Reduction of extra charge for off-the-main-line service from 63 cents per quarter mile per month to 40 cents per quarter mile per month.

The court said that it believed the new rates should be given a trial during a test period, concluding its decision with the following:

"We find, on this record, construed as favorably to plaintiff as can be reasonably done, that the rates in controversy, are not confiscatory, that an interlocutory injunction ought not to be granted, and that the new rates should be tried out during a test period, intervening between the present and the final decree, in order to determine with some degree of certainty the effect they will have on the complainant's business and the return on its investment.

"Application for temporary injunction is denied. The case will have to be referred to a master and an order of reference will be taken."

Asserting that the court believed a 6 per cent return "good," the opinion said:

"From the evidence in the case we find that a return of 6 per cent per annum on the present value of complainant's property, used and unused, would not be confiscatory in light of present conditions and the earnings generally being made in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties."

Concerning the valuation, the court said:

"In the orders the commission did not make a specific finding of the fair value of the company's property used and useful in its intrastate business in Georgia, but in its answer and in affidavits submitted, it asserts that the fair value of such property does not exceed \$18,000,000 and that rates fixed by it afford adequate and ample return.

"On the other hand the complainant in its petition also in affidavits contends the actual cost of the property was \$33,449,402 and production cost, less depreciation, amounts to \$31,931,500, which, it claims, is the fair

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value on which it is entitled to a reasonable return.

"Since the burden of proof is on the complainant it will not be necessary to go very deeply into the computations of the com-

mission, if the company's own calculations do not clearly establish confiscation."

Southern Bell Telephone Co. v. Georgia Public Service Commission.



Supreme Court Refuses to Enjoin Commission Regulation of Utility Expense Accounts

THE Supreme Court of the United States, in a recent opinion by Mr. Justice Butler modifying a lower Federal court's injunction against the enforcement of an order of the Kansas commission concerning the Wichita Gas Company and other Cities Service subsidiaries, has laid down the rule that utilities are not entitled to Federal restraining orders to prevent the enforcement of state commission orders requiring them to desist from setting up on their expense accounts for consideration in fixing rates, payments for supplies and services to affiliated corporations in amounts deemed excessive by the commission. The court viewed such commission action as a purely legislative method of regulatory investigation for obtaining information. It pointed out that such action did not prejudice the rights of the utilities to contest on grounds of confiscation any subsequent rate fixing if and when attempted by the commission.

The order in question directed the subsidiary distributing utilities to cease setting up as an expense item the payment of 1½ per cent of their gross earnings for alleged services to an affiliated corporation, and also the payment to an affiliated pipe-line company for wholesale natural gas supply in excess of 30 cents per thousand cubic feet. The order also directed the distributing company to give no consideration to the payments so disapproved as operating expenses in fixing rates to domestic consumers, and required the distributing companies at a later date to show cause why the prescribed reductions should not be passed on to the consumers.

The invalidity of a second order of

the commission at a subsequent date specifically requiring the distributing companies to pass on the difference between the prescribed wholesale rate and the rate previously paid to the domestic consumers was acknowledged by the Kansas commission and other state officials, parties to the cause, and a lower Federal court injunction against the enforcement of such second order was accordingly affirmed. The court's opinion stated:

"Appellees (utility companies) in substance suggest that, unless now adjudged invalid and enjoined, the findings and directions of the commission in respect of their operating expenses and the fixing of rates will be binding upon them in later proceedings for the prescribing of rates to be charged by them for gas furnished to consumers and in suits involving the validity of such rates. But the commission's proceedings are to be regarded as having been taken to secure information later to be used for the ascertainment of reasonableness of rates.

"The order is therefore legislative in character. The commission's decisions upon the matters covered by it cannot be *res adjudicata* when challenged in a confiscation case or other suit involving their validity or the validity of any rate depending upon them.

"It results, therefore, that appellees in their complaints failed to state facts sufficient to entitle them to a decree enjoining the appellants from enforcing the first order for, as insisted by appellants in oral argument in this court, the challenged provisions are merely preliminary steps in aid of investigations for the ascertainment of the reasonableness of appellees' rates, and they have no binding force in respect of payments to the pipe-line company or rates to be charged consumers and cannot be *res adjudicata*."

Kansas Corporation Commission et al. v. Wichita Gas Co. et al. (No. 114.)

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Duty of Private Company to Serve Municipal Telephone System Denied

THE petition of the city of Los Angeles to the California commission for an order that would clear the way for establishment of a municipally owned interconnecting communication system has been denied by the commission. The municipality asked the commission to require the Southern California Telephone Company to make a physical connection between the company's lines and an intercommunicating system proposed to be installed by the city. It also asked the commission to establish rates.

In seeking the order, the city set forth that its various departments are provided with 2,877 telephone instruments, 24 private branch exchange switchboards, and 316 trunk lines. The city also recited that it pays an average monthly charge of \$17,402, and that it hoped, through establishment of the intercommunicating system, to save approximately \$10,000 monthly, less the cost of maintenance and carrying charges on the new city-owned equipment. The company objected to the plan on two principal grounds: (1) that the commission is without authority to require the rendition of such telephone service so materially different

from that which it has offered to render; and (2) that compliance with the city's demand would be destructive of efficient telephone service to its patrons.

Contentions were made, as to the first argument, by the city that the company is now serving a number of various private concerns, and one department of the city itself, without insisting on company ownership and maintenance of station facilities. The commission analyzed the various cases and found them not in point. With reference to the second argument of the company—that poorer service would result—the commission pronounced the proposal a retrogressive step in telephone utility regulation. The decision stated:

"The commission has frequently expressed the opinion that a divided ownership of telephone equipment and responsibility for its maintenance is not compatible with efficient telephone service. It has frequently been declared that a telephone utility must own and maintain all facilities required for the transmission of messages from one subscriber to another. Almost without exception a similar view has been expressed by the regulatory commissions of other states."

Los Angeles v. Southern California Telephone Co.



Right of Customer to Deduct Amount of Tax from Utility Bill Denied

THE supreme court of Mississippi reversed the decision of a lower court of that state granting a writ of mandamus compelling a power company to resume serving gas to a consumer who tendered as payment for his bill a franchise right minus a reduction for the state sales tax. The original bill alleged that the Mississippi Power & Light Company was under contract with the city of Jackson to charge not in excess of 30 cents per thousand cubic feet. The complaining consumer had been billed at that rate for the amount of

gas consumed on his premises, plus a controverted item of 2 per cent sales tax, which the company apparently believed it may rightfully pass on to its customers.

The complaining customer, however, had a different view and refused to pay the bill, but did make a tender of a cash payment of the amount from which the amount of tax had been deducted, and demanded a receipt in full. The company refused to accept the offer and further payment not being forthcoming discontinued service. The court did not

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pass upon the issue of whether or not the utility was justified in passing on the sales tax, but held that the customer's tender was ineffective because it was coupled with a condition which would have precluded the power company from thereafter asserting its right to recover the amount of sales tax on gas consumed by the customer, and because by giving a receipt in full (as demanded by the customer), the power company would have precluded itself from thereafter charging or collecting a sales tax claimed by it from other consumers—the power company being a public corporation required to serve

all the consumers on the same terms.

The court further held that a mandatory injunction requiring the power company to resume service under such circumstances was an improper use of chancery powers, since even assuming the correctness of the consumer's contention there was an adequate remedy at law available. The court further added that a mandatory injunction should not be granted on *ex parte* application without notice except in cases of greatest emergency, and where there can be no reasonable doubt of its propriety. *Mississippi Power & Light Co. v. Ross* (No. 30863; 150 So. 830).



Phone Salaries Too High; Reduction Ordered

DECLARING salaries paid executives of the Pacific Telephone & Telegraph Company are unreasonably high, Charles M. Thomas, Oregon public utilities commissioner, on January 2nd ordered a sharp reduction in these salaries in the Oregon area under his jurisdiction.

The commissioner said the salaries of upper bracket officials in Portland, San Francisco, and Seattle now total \$233,739, and that of this Oregon must pay \$78,768. His order recommended the combined salaries be cut to \$137,525, and ordered that Oregon's payment must be reduced to \$58,989. In issuing his order Commissioner Thomas based his authority on a state law adopted last year giving him power to reject

budget items of public utilities operating in Oregon, or to order reductions in these items.

While the commissioner's order set forth reductions in total salaries of telephone officials in the three cities, his office explained he could take jurisdiction only over Oregon's share. Salary slashes for officials outside Oregon were in the nature of recommendations and for the purpose of establishing a basis for determining the extent of reductions definitely ordered for Oregon.

Commissioner Thomas likewise rejected the proposed payment by the Pacific Company of \$101,000 to the American Telephone and Telegraph Company during 1934 as a service fee. *Re Pacific Telephone & Telegraph Co.*



Room-count Electric Rates Are Not Favored

THE New York commission in accepting an offer of rate reductions by the companies in the Niagara Hudson System expressed the belief that simplification of electric rate schedules could best be accomplished by minimizing the use of the counted-room form of rates. Commissioners Brewster and Burritt, delivering the opinion, said:

"The present 'counted-room' form of rate for electricity went into effect for this company in March, 1929. The argument in favor of this type of rate is that it places a higher initial charge upon those consumers who make the large demand upon the company and make possible a low energy charge. However, it offers opportunity for discrimination between consumers in the application of the initial charge through the count of the rooms. It is confusing to the